STATE OF MINNESOTA DISTRICT COURT
COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT
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The State of Minnesota,
by Hubert H. Humphrey, III,
its attorney general,
and
Blue Cross and Blue Shield
of Minnesota,
Plaintiffs,
vs. File No. C1-94-8565
Philip Morris Incorporated, R.J.
Reynolds Tobacco Company, Brown
& Williamson Tobacco Corporation,
B.A.T. Industries P.L.C., Lorillard
Tobacco Company, The American
Tobacco Company, Liggett Group, Inc.,
The Council for Tobacco Research-U.S.A.,
Inc., and The Tobacco Institute, Inc.,
Defendants.
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TRANSCRIPT OF PROCEEDINGS
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P R O C E E D I N G S.

THE CLERK: All rise. Ramsey County District Court is again in session, the Honorable Kenneth J. Fitzpatrick now presiding.

(Jury enters the courtroom.)

THE CLERK: Please be seated.

THE COURT: Good morning.

(Collective "Good morning.")

MR. CIRESI: Thank you, Your Honor. Good morning, ladies and gentlemen.

(Collective "Good morning.")

GEOFFREY C. BIBLE

called as a witness, being previously sworn, was examined and testified as follows:

ADVERSE EXAMINATION (cont'd)

BY MR. CIRESI:

Q. Good morning, Mr. Bible.

A. Good morning, Mr. Ciresi.

Q. Sir, you'll recall that over the last day and a half I've asked you some questions concerning the effect that higher cigarette prices would have on teen-agers. Do you recall those questions?

A. Yes, I recall them, yes.

Q. And it is a fact, is it not, sir, that Philip

Morris tracked information with regard to what effect higher prices would have on teen-agers?

A. I think you showed me some documents yesterday

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that suggested that.
Q. Okay.
A. Am I right?
Q. Well I showed you a document when we recessed regarding Philip Morris's lobbying in the state of Minnesota to restrict youth access, lobbying against those bills which would have raised taxes. Do you recall that one?
A. Well other than that, I don't know that Philip Morris has tracked the issue of cigarette prices and youth.
Q. So the only awareness you have of tracking excise taxes is where Philip Morris, through The Tobacco Institute, fought increases in tobacco taxes which would have restricted youth access; correct?
A. No, I don't think that's right. I was responding to your earlier question of youth and excise taxes. I think you asked me --
Your first question, could you repeat that, please?
Q. Do you want me to go back to the first one this morning?

A. Yes. That's what I was trying to address.
Q. All right. The first one this morning was you're aware that we have discussed whether or not increase in taxes on cigarettes would curtail youth access.
A. I believe that would certainly happen, yes.
Q. And you're aware that Philip Morris has fought increases in cigarette excise taxes.
A. Yes, we have, because we think they're regressive.
Q. Now can you direct your attention to Exhibit 10560, which would be in book one, sir.
A. Yes.
Q. Do you have that, sir?
A. Yes, I do.
Q. You see that's a September 17, 1981 memorandum from Mr. Johnston to Mr. Daniel of Philip Morris U.S.A.?
A. Yes.
MR. CIRESI: Your Honor, we'd offer Exhibit 10560.
MR. BLEAKLEY: No objection.
THE COURT: Court will receive 10560.
BY MR. CIRESI:
Q. You see in the upper hand -- right-hand corner

it's dated September 17th, 1981?
A. Yes.
Q. And it involves teen-age smoking and the federal excise tax on cigarettes; correct?
A. Yes.
Q. And Mr. Johnston here is reporting to Mr. Daniel regarding a study that he made on a National Bureau of Economic Research working paper entitled "The

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Effect of Government Regulation on Teenage Smoking;"
correct?
A. Yes.
Q. And in that report the authors examined the impact on teen-age smoking of the excise tax on cigarettes, the FCC Fairness Doctrine, i.e., the anti-smoking commercials, and the cigarette advertising ban; correct?
A. Yes.
Q. And he reports that this is by far the best study he had read concerning the effects of anti-smoking commercials and the only study that he knew of that attempts to determine the price elasticity of cigarettes among different groups; correct?
A. That's what it says.
Q. Now sir, he also reports that because of the

quality of the work, the prestige and objectivity of the National Bureau of Economic Research, and the fact that the excise tax on cigarettes has not changed in nearly 30 years, he felt that Philip Morris needed to take seriously their statement that if future reductions in youth smoking are desired, an increase in the federal excise tax is a potent policy to accomplish this goal; correct?
A. Yes, that's what it says.
Q. And as you just testified, Philip Morris has fought those excise taxes; correct?
A. Yes, we -- we have, because we think it's unfair to select a particular group of society to impose taxes upon.
Q. Now if you go over to page two --
A. Yes.
Q. Have you reviewed this document, sir?
A. No. It means nothing to me, sir. I've not seen this before.
Q. Okay. If you go over to page two, the first full paragraph, Mr. Johnston references the fact that the best estimate based on most researchers, himself included, is that the price elasticity of cigarettes is about minus 0.4; correct?
A. Yes, that's what it says.

Q. And you understand what that means; don't you?
A. Yes, I do.
Q. That means that a 10 percent increase in the retail price of a cigarette will cause a decline of about four percent in cigarette sales.
A. That's what it means.
Q. Okay. So when we see price elasticity minus 0.4, that means that if you raise it 10 percent, it goes down four percent in sales.
A. That's the theory.
Q. All right. And he reports here that "Many of us have hypothesized that price elasticities are different for different demographic or socioeconomic

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groups...;" correct?
A. That's what he says, yes.
Q. And that the price increases would have less impact on the higher income groups; correct?
A. Yes.
Q. And you agreed with that yesterday; didn't you?
A. I'm not sure if I did, but I certainly agree with it.
Q. Okay. And it also -- price increases would also have less effect on the older and therefore more habituated smokers than on other smokers; correct?
A. That's what it says, yes.

Q. Because they can't quit; correct?
A. I wouldn't say that, sir.
Q. That's what he's saying; correct?
A. That's what he says, sir, yes.
Q. Now in the next paragraph it also talks about the anti-smoking commercials; correct?
A. In which paragraph?
Q. The next paragraph.
A. Yes.
Q. And here he talks about what has been the effect of publicity that has come out regarding the health effects of smoking; correct?
A. Well could I read it, please?
Q. Certainly.
A. Sir, how did you describe it, please?
Q. He describes here what effect publicity regarding the health effects of smoking has had on sales of cigarettes.
A. Yes, that's right.
Q. And he states that the authors in this National Bureau of Economic Study had concluded that anti-smoking commercials represented a shock to the underlying upward trend in teen-age smoking in the mid-1960s and early seventies, particularly in the first year in which they were aired, but that the

trend reasserted itself the following year, although teen-age smoking remained at a lower level than would have been the case in the absence of anti-smoking commercials; correct?
A. That's what it says, yes.
Q. And essentially what he's saying there is when all these anti-smoking commercials went on TV --
And you're familiar with the Fairness Doctrine; correct?
A. The Fairness Doctrine?
Q. Yes.
A. No, I'm not, sir.
Q. You're not.
Are you aware that in 1970 or '71, that there were anti-smoking ads put on --
A. No, I'm not.
Q. -- TV?
A. I was not with Philip Morris in those days.

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Q. Well what Mr. Johnston is reporting here is that when anti-smoking commercials were on TV, the trend -- upward trend of teen-age smoking went down; correct?
A. Well that's what the report says, I think; isn't it? He's -- he's quoting the authors of the report.
Q. Right.

A. Right.
Q. And the authors of the report further reported that in the next year of the anti-smoking commercials, the trend of teen-age smoking continued to go up, but at a lower rate; correct? Or lower level.
A. That's right.
Q. And he says this is consistent with his own findings that he made on behalf of Philip Morris; correct?
A. Well he says it's consistent with my findings. I don't know if he made them on behalf of Philip Morris. He certainly worked for Philip Morris.
Q. Well you'd assume he was doing it on behalf of Philip Morris.
A. I would assume that, yes.
Q. He was discharging his duties and responsibilities as an employee of Philip Morris; correct?
A. Well I don't know if that is correct, because I don't think one of his responsibilities would have been to track teen-age smoking, sir.
Q. Well you weren't there; isn't that right?
A. I was not there, sir. I was in Europe.
Q. But he was tracking teen-age smokers according

to his words; right?
A. From what he says there, yes, that's right.
Q. Is this another document that you're ashamed of?
A. This document?
Q. Yes.
A. No, I'm not ashamed of this. It seems to me that he's reporting on something that is a report, a government report.
Q. Let's go on to see what he says.
"This is consistent with my findings that random shocks, such as the report of the Royal College of Physicians and Surgeons, the Readers Digest articles, and the reports of the Surgeon General, have brief effects, and that sales subsequently resume the upward trend, but more slowly and from a lower base." Do you see that?
A. Yes.
Q. And so he's saying that is what he found on behalf of Philip Morris; correct?
A. Well that's what he found.
Q. Then he goes back and he says, "The authors also conclude that the cigarette advertising ban had a relatively minor effect in discouraging teenage

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smoking." Correct?
A. That's what he says, yes.

Q. And that's the ban of any cigarette ads on TV; isn't it, sir?
A. I don't know.
Q. Okay. That's not referring to whether or not Philip Morris would have taken some of its 15.9 billion dollars of money that is spent on marketing, promotion and advertising, and put anti-smoking ads on TV for teen-agers. He's not referring to that; is he?
A. Well that was in 1983-'4; wasn't it, sir?
Q. That was 1983 to 1994, yes.
A. I think this is 1981, isn't it?
Q. Well did Philip Morris spend money on marketing, advertising and promotion prior to 1983?
A. I expect so.
Q. Billions of dollars; right?
A. I don't know.
Q. And they never took any of that money and put ads on TV urging teen-agers not to smoke because of the diseases they might contract as a result of it; did they?
A. I don't know if they did, sir.
Q. Are you aware of Philip Morris ever putting such an ad on TV?
A. On TV?

Q. Yes.
A. Nothing comes to my mind. But I wasn't here in those days, sir, so I can't say "yes" or "no."
Q. Now if we go on to the next paragraph, Mr. Johnston reports that there's a greater impact of price increases on teen-agers --
A. Could you show me where that is, please?
Q. Well if I could finish my question.
A. Thank you. But I don't --
I find it difficult to follow you when you can't lead me to where it is that I should be reading.
Q. Well let me ask a question, --
A. Okay.
Q. -- then I'll direct you. Okay?
In the next paragraph, Mr. Bible, does Mr. Johnston report on the greater effect that a price increase has on teen-agers as contrasted with older smokers? Could you take a look at the next paragraph starting with the language "the most important finding...."
A. Okay.
A. Yes. Could you repeat your question, please?
Q. In this paragraph, does he report on the fact that price increases have a greater impact on teen-agers than it does on the average smoker?

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A. Yes, he does.
Q. And what he says is, "The most important finding, and the one of greatest significance to the company, is their calculation of the price elasticity of cigarettes among teenagers." Is that right?
A. Yes, he does. He goes on to say, also, that he also found that smoking by young adults 20 to 24 is much more responsive to price.
Q. Well let's go point by point here. Right now I'm on the first point.
"The most important finding, and the one of greatest significance to the company, is their calculation of the price elasticity of cigarettes among teenagers." Correct?
A. Yes.
Q. Now, he's saying that it's the greatest significance to Philip Morris; correct?
A. And -- the one of greatest significance to the company, yes.
Q. And he's referring to teen-agers; correct?
A. Is the price elasticity of cigarettes among teen-agers, correct.
Q. And he's talking about the price of cigarettes that teen-agers would have to pay; correct?
A. Yes, that would be my assumption.

Q. Now are you ashamed of the document?
A. Well I'm embarrassed by it.
Q. You're embarrassed by it.
A. Hmm.
Q. Is this another anomaly?
A. Sir, I don't know. I think we've used that word on five or six occasions, maybe three or four occasions. It's something that I've not seen in my career at Philip Morris. We do not market cigarettes to teen-agers, I can tell you that. I never have. And if this is one of five or six, I would say it's certainly an anomaly.
Q. All right. Is your answer yes?
A. Yes, it is.
Q. Thank you.
Now Mr. Johnston goes on, "They calculate that the smoking participation elasticity is minus 1.2, which means that a ten percent increase in the price of cigarettes would lead to a decline of 12 percent in the number of teenagers who would otherwise begin to smoke." Correct, sir?
A. Yes, that's what it says.
Q. So it's a three-fold greater impact on teen-agers than on the older smokers; correct?
A. On those older smokers --

On the average, I think the .4 he referred to, that's correct. I think that's the average of the whole universe; isn't it, the .4?
Q. That's for smokers.

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A. All smokers, yes.
Q. Correct. So it's a three-fold increase; correct, sir?
A. Yes.
Q. He even says, "This is in contrast to the aforementioned minus 0.4 elasticity for the total smoking population;" correct?
A. Yes. That's my point, the total smoking population.
Q. And then he goes on to say that even among 20- to 24-year-olds, they're much more responsive to price than smoking by older adults; correct?
A. Yes, he does.
Q. And he says that again is consistent with the hypothesis mentioned above; correct?
A. Yes, he does.
Q. And the hypothesis mentioned above is that the older you get, the more hooked you are on the cigarettes; isn't that correct?
A. I wouldn't form that conclusion, no.
Q. Well he --

Let me use his words. I apologize. More habituated; correct?
A. I don't think he said that either.
Q. He didn't.
A. Huh-uh.
Q. Well right up above in the first paragraph, --
A. Uh-huh.
Q. -- halfway through, --
A. Uh-huh.
Q. -- "Many of us have hypothesized that price elasticities are different for different demographic or socioeconomic groups, e.g., that price increases would have less effect on the higher income groups and on the older and therefore more habituated smokers, than on other smokers." Isn't that what he said?
A. That means to me that people -- "more habituated" means that you have a smoking habit.
Q. And that's what he was referring to, then, down below; correct, sir?
A. Yes, he was, I think.
Q. Now if you go on to the next page, page three, and look at the first paragraph, in the middle of that paragraph he talks about the fact that "Among teenagers the prevalence of cigarette smoking is

highly correlated with income (from either allowances or working) while there was no similar correlation between smoking prevalence and income among adults." Correct, sir?
A. Yes, correct.
Q. And this whole document is talking about teen-age smoking and the federal excise tax on cigarettes; isn't it? That's the title of it.
A. Yes, that's the title of it. That's commenting

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on a report by the National Bureau of Economic Research.
Q. And on his own figures; correct?
A. He told --
He mentions his own findings, yes.
Q. Yes. And if we go to the next paragraph, Mr. Bible, --
A. Uh-huh.
Q. -- he's talking about cross-elasticities; correct?
A. The next paragraph?
Q. On page three.
A. Uh-huh. Yes, he is.
Q. Okay. And you would --
You know what cross-elasticities are?
A. No, I'm not completely familiar with that term.

Q. Well isn't that a product that someone might substitute for the product in question based upon price points?
A. I don't know, but it could be.
Q. You've never heard of the term "cross-elasticity?"
A. No, I've not.
Q. In your 20 some years with Philip Morris, you've never heard such term?
A. No, I have not. Not to my memory, sir.
Q. Can you look at the middle of that paragraph.
A. Uh-huh.
Q. "I think it is more than coincidental" --
Do you see that language?
A. Yes, I do. I see it there.
Q. -- "that the sharpest declines in smoking prevalence among teenage males occurred in 1979 and 1980, the years in which the price of gasoline rose most sharply." Do you see that?
A. Yes.
Q. "When it comes to a choice between smoking cigarettes or cruising around in his car, the average teenage male would probably choose the latter." Correct?
A. Yes.

Q. "If this cross-elasticity between cigarettes and gasoline is, indeed, related to the decline in smoking prevalence among teenagers, we would expect to see some moderation in the rate of decline in smoking among boys when the 1981 data becomes available." Correct?
A. Yes, correct.
Q. So again Mr. Johnston is looking at teen-age males; correct?
A. Yes, he is.
I don't see, though, that he's talking about marketing cigarettes to teen-agers.
Q. Well we've seen other documents about that; haven't we, sir?

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A. No, I haven't.
Q. You haven't?
A. Not marketing, not marketing to them, no.
Q. The last two -- two days you haven't?
A. I've seen surveys, but I've not seen any documents that show we market cigarettes to children.
Q. Oh. All the documents you've seen, didn't you think they had anything to do with marketing, tracking how much the market share of Marlboro is in the under 17, talking about teen-agers and why they smoke, going up to the board of directors, none of

that had to do with marketing; is that what you're saying?
A. Well I've not seen any evidence that we've marketed them, so that's what I'm saying.
Q. So you're saying none of that had to do with marketing.
A. No, I -- I don't know what it was to do with, but certainly it was capturing information. I said yesterday I was ashamed of that.
Q. Ah. Maybe it was just as you said, since the board likes to have provocateurs, too, they were just sort of speculating on teen-agers; is that what it was?
A. Well I think you said that, and I said maybe they are provocateurs from time to time.
Q. Yeah. So maybe that's what they were doing, just being provocateurs and speculating?
A. Could be.
Q. If we go, sir, into the last paragraph, "In any event, and for whatever reason, it is clear that the price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the federal excise tax on cigarettes." Do you see that?

A. Yes, I see that.
Q. And if we go over to the next page, sir, the last paragraph, first part, Mr. Johnston also reports, "It is worth noting that government actions designed to reduce smoking in the late sixties and early seventies served to moderate an underlying upward trend in teenage smoking, while any government action taken now will accelerate its present downward trend." Do you see that?
A. Yes, I do.
Q. Now, as we go through that paragraph, we see Mr. Johnston talking about what effect will occur on sales of the product; doesn't he?
A. Well may I read it?
Q. You may.
A. Yes, I've read it.
Q. And he's talking about the effect of excise taxes on teen-agers, too; isn't he?
A. Yes, it refers to that.

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Q. Yes. Let's -- let's read that. "Given a price elasticity of minus 0.4 for total cigarette sales and minus 1.2 for teenage smoking participation, a 25 percent increase in the excise tax could be expected to reduce industry sales to about 1.2 percent below what would be expected in the absence of such an

increase, and to reduce the number of teenage smokers to 3.5 to 4 percent below the number that would otherwise be expected. The almost certainty of improved economic conditions, lower inflation rates, and increasing discretionary incomes over the next few years, however, should serve to moderate the adverse effect of sales of an excise tax increase. We can never look with equanimity on increases in the excise tax, but because of demographic trends and the improved economic outlook an increase at this time would probably be less harmful than it would have been at any other time in the past decade." Correct, sir?
A. That's what it says, yes.
Q. He's reporting on sales to teen-agers; correct?
A. He's reporting upon, I think, all sales in the cigarette industry, and one aspect of that was the element of teen-age smoking.
Q. Teen-age sales; correct?
A. He talks about "and to reduce the number of teenage smokers to 3.5 percent to 4 percent below the number that would otherwise be expected."
Q. Be expected by whom, sir?
A. By the company, I would anticipate.
Q. By the company.

A. Uh-huh.
Q. Your company; correct?
A. And probably the whole industry.
Q. Well I'm just talking right now about your company. Correct?
A. Well, sir, I'm not -- I didn't write this -- this. I'm trying to interpret what he wrote. I'm not sure what he meant when he wrote this.
Q. Well if he didn't mean your company alone, then he meant your company and the entire industry.
A. Oh, I'm not denying that he worked for Philip Morris and this was probably addressed to people in Philip Morris, yes.
Q. Thank you.
Now is that the type of thing Philip Morris should be doing?
A. What is that, sir?
Q. What Mr. Johnston was doing right here.
A. Well he's reporting upon a report.
Q. On teen-agers. Is that what they should be doing?
A. Well it's a report, "The Effect of Government Regulation on Teenage Smoking." So he's reporting upon that. And if teen-agers smoke, then clearly

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he's commenting upon that.

Q. He's talking --
A. It doesn't evidence that we were marketing cigarettes to teen-agers, sir.
Q. So you don't think that had anything to do with the fact that Philip Morris was marketing to teen-agers.
A. No, I don't.
Q. Okay. Can you direct your attention to Exhibit 10560.
Excuse me. Sorry. 11591.
A. Yes, I have that.
Q. Now this is another memorandum by Mr. Johnston; correct?
A. Yes.
Q. Six years later; correct?
A. Yes.
Q. Sent to Mr. Zoler, director of marketing research; correct?
A. Well I'm not sure what his job was.
Q. Well will you accept that that's what his title was, sir?
A. Yes.
Q. And if you look on the last page, you see the carbon copy to all those individuals?
A. Yes.

Q. Do you know any of them?
A. I'd know two or three, probably. Or knew them.
Q. Do you know Mr. Gee?
A. I met Mr. Gee, yes.
Q. And what was his position?
A. I'm not sure. He could have been working in market research or product research at some time, but I'm not sure what his job was at that time.
Q. Was he a director?
A. I don't believe so.
Q. Is he an executive?
A. In 1987, I don't know that he would have been an executive.
Q. He became an executive; didn't he?
A. He became an executive? I have no memory of that, sir.
Q. Mr. Goldfarb, do you know him?
A. No, I don't know him.
Q. Ken Houghton, do you know him?
A. Yes, I did know him. He was at one point head of the research and development.
Q. Head of research and development.
A. Uh-huh.
Q. Carolyn Levy, do you know her?
A. Yes, I do know her.

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Q. And what was her position?
A. Well she today works in, I think, marketing research for Philip Morris U.S.A.
Q. Okay. And "marketing" means marketing of cigarettes; correct?
A. Yes, clearly.
Q. And Leo Meyer, do you know Mr. Meyer?
A. No, I do not.
Q. Karen Miller, do you know Karen Miller?
A. No, I've never heard of her.
Q. John Tindall?
A. I said yesterday I had met John years ago.
MR. CIRESI: Your Honor, we'd offer Exhibit 11591.
MR. BLEAKLEY: No objection.
THE COURT: Court will receive 11591.
BY MR. CIRESI:
Q. Now this is September 3rd, 1987; correct, sir?
A. Yes, it is.
Q. That's about six years after the previous memo that we just saw.
A. Yes.
Q. And the subject again is "Handling an excise tax increase." Correct?
A. Correct.

Q. Let's work our way through this memo.
Have you read this before?
A. No.
Q. You haven't. Okay.
Let's take a look at the first paragraph. You see that Mr. Johnston is reporting on the fact that he's been asked for his views as to how we should pass on the price increase in the event of a increase in the excise tax?
A. Yes, I do.
Q. Okay. And that means that someone at Philip Morris asked him for his opinions; correct?
A. I expect so, yes.
Q. And usually superiors ask the people that work with them for their opinions; correct?
A. Not necessarily. It could be anybody.
Q. All right. Well --
A. He doesn't say who it is, so I can't speculate on who it is.
Q. Well do you know --
You don't know if Mr. Zoler, I guess, was the director of marketing research at that time; do you?
A. Well you said he was.
Q. And if he was, would you assume that he was a superior to Mr. Johnston?

A. Well I don't know what Mr. Johnston's job was.
Q. All right.
A. I'm not being a quibbler, but it doesn't say I've been asked by you for my views, it says I've been asked for my views. So I don't know who asked

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him for his views.
Q. I don't want to quibble either, sir.
A. Thank you.
Q. Thank you.
It says here, "Pass on the increase in one fell swoop...;" correct?
A. That's what it says.
Q. "...and make it clear to smokers that the government is solely responsible for the price increase, advertise to that effect, and suggest that people stock up to avoid the price increase, and recommend they -- that they refrigerate their cigarettes to preserve their freshness;" correct?
A. Yes.
Q. And the reason for that is that they wanted to emphasize that point or we'd get a lot of beetle complaints; correct?
A. That's what it says.
Q. Then he goes on to state, "Then when people exhaust their supply and go to the store to buy more,

they will be less likely to remember what they last paid and will be less likely to suffer from 'sticker shock.' As a result, they should be less likely to use the price increase as an incentive to stop smoking or reduce their consumption;" correct?
A. That's what it says, yes.
Q. Then he goes on to talk about what happened back in 1982 when there were price increases; correct?
A. Yes.
Q. And he said that Philip Morris had increased prices five times between February of '82 and January of '83; correct?
A. Correct.
Q. And that at that time the customers could legitimately blame the manufacturers for the price increase; correct?
A. Well let me read that.
Q. Sure.
A. That's what it says, yes.
Q. Then he goes on to state, "While price increases of this magnitude might have been tolerated during the rapid escalation and the overall inflation rate between 1977 and '81, the increases in the price of cigarettes in '82 and '83 was made even more dramatic by the fact that the overall rate of inflation was

slowing considerably. You may recall from the article I sent to you that Jeffery Harris of MIT calculated, on the basis of the Lewin and Coate data, that the 1982-83 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke." Correct?
A. That's what it says, yes.
Q. And then he goes on to say what impact that had on Philip Morris; doesn't he?
A. Well let me read.

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Q. Certainly.
A. Yes, he does, yes.
Q. He says, "Those teenagers are now 18 to 21 years old, and since about 70 percent of 18- to 21-year-olds and 35 percent of older smokers smoke a PM brand, this means that 700,000 of those adult quitters had been PM smokers...;" correct?
A. Correct.
Q. "...and 420,000 of the non-starters," i.e., the teen-agers, "would have been Philip Morris smokers;" correct?
A. That's correct.
Q. And then he goes on to say, "Thus, if Harris is right, we were hit disproportionately hard. We don't need that -- to have that happen again." Correct?

A. Yes, that's correct.
Q. And he's talking about the teen-age smokers or potential smokers who didn't start; isn't he?
A. That's what he's saying, yes.
Q. Have you seen this document before?
A. Have I seen this document before?
Q. Yes.
A. No. I said I had not seen this document before.
Q. Is this one you're ashamed of?
A. Yes, I'm embarrassed by that.
Q. Are you ashamed of it?
A. Well I'm embarrassed. I don't see the distinction between the two, frankly.
Q. Oh. So embarrassed and ashamed is the same.
A. To me.
Q. Shouldn't have been done?
A. I don't think we should have been commenting on matters like that. I think that's poor.
Q. Violating the duty that you have to the public?
A. I don't know that this letter is violating the duty we had to the public, sir. This doesn't say that we're marketing cigarettes. He was simply saying that those teen-age smokers who might have started did not start.
Q. He said we were hit disproportionately hard and

we don't need to have that happen again. Isn't that what he's saying?
A. Well I don't like that.
Q. Well do you think these types of memos were circulating around Philip Morris because people had idle curiosity about what teen-agers may or may not do, sir?
A. No, I don't. I don't know why they were circulating around Philip Morris, sir.
Q. Just no idea; right?
A. No, I don't. But I'm embarrassed by them. In 1982, for example, I was in Australia.
Q. Well, the company is still responsible for its actions whether you were in Australia or Europe or Istanbul; right?

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A. Certainly the company does, but I thought you asked me personally.
Q. You want to distance yourself from the company in that respect?
MR. BLEAKLEY: Objection, Your Honor.
A. No, I don't. I'm very proud of my company.
MR. BLEAKLEY: That's argumentative.
THE COURT: Sustained.
MR. CIRESI: May I approach, Your Honor?
(Document handed to the witness.)

Q. Mr. Bible, I've handed you what has been marked as 24143, a Philip Morris document which has been produced in this litigation entitled "REASONS FOR CONSIDERING CAMEL AS A SERIOUS COMPETITOR." Do you see that?
A. Yes.
MR. CIRESI: Your Honor, we'd offer Exhibit 24143.
MR. BLEAKLEY: Was this document predesignated?
MR. CIRESI: Yes, it was.
MR. BLEAKLEY: Excuse me, Your Honor, I'm just having trouble locating it.
No objection.
THE COURT: Court will receive 24143.
BY MR. CIRESI:
Q. Now on the top it says "REASONS FOR CONSIDERING CAMEL AS A SERIOUS COMPETITOR." Correct?
A. Yes.
Q. Now sir, you would agree that there has been increased scrutiny of the tobacco industry with regard to whether they've been selling cigarettes to teen-agers; correct?
A. Yes.
Q. And do you know if, as a result of that

increased scrutiny, people within Philip Morris use code names for teen-agers?
A. I have no idea of that, sir.
Q. Now --
A. Again, that would really surprise me. I've not heard of that ever.
Q. All right. Can you go to the second page, sir.
A. Uh-huh. The first page after the cover you mean?
Q. Yes. It says "CAMEL IS BECOMING YOUNGER." Do you see that?
A. Yes.
Q. And it says "CAMEL HAS REMAINED AT A 4 PERCENT SHARE OF SMOKERS SINCE 1980. HOWEVER, IT HAS UNDERGONE A SUBSTANTIAL SHIFT IN ITS AGE PROFILE. IN THE PAST FOUR YEARS, THE PERCENTAGE OF CAMEL SMOKERS WHO ARE 18 TO 24 YEARS OLD ALMOST DOUBLED - 12 PERCENT IN '86 VERSUS 21 PERCENT IN 1990." Do you see that?
A. Yes.

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Q. And if you go on to the next page, you'll see a Camel age profile. And do you see there where it says "12 -- 12 months ending July 1990?"
A. Yes, I do.
Q. So would it be fair to state that this document

was sometime after July of 1990?
A. Yes, that's fair.
Q. All right. If you go back to the previous page then, sir. Do you know when Camel started -- excuse me.
Do you know when RJR started its Joe Camel campaign?
A. No, I don't know exactly. But if I had to guess, I'd say about ten years ago.
Q. '88.
A. Okay. Well, close.
Q. On the 75th anniversary of the Camel cigarette?
A. Well I didn't reconcile the two, sir.
Q. Now the document goes on to state that there's "THREE DIFFERENT FACTORS HAD CONTRIBUTED TO THIS PHENOMENON." Do you see that?
A. Yes.
Q. "GROWTH AMONG YOUNG SMOKERS." Do you see that?
A. Yes.
Q. And "BETWEEN '86 AND '90, CAMEL GREW," and then it's got 18-to-24 age group and 18-to-21 age group, and then "6 SMOKER SHARE POINTS AMONG YOUNG ADULTS." Do you see that?
A. Yes, I do.
Q. What are young adults?

A. Well I would describe young adults as between 18 and 24.
Q. Well they have that up there. It says "5 SMOKER SHARE POINTS AMONG 18 TO 24."
A. Yes, you're right.
Q. Then it says "4 SMOKER SHARE POINTS AMONG 18 TO 21."
A. That's correct.
Q. And then ""6 SMOKER SHARE POINTS AMONG YOUNG ADULTS."
A. Well I don't know what that means.
Q. Okay. Can you go on to the next page.
A. Yes.
Q. And do you --
Let's deal with the 18 months ending July 1990. Do you see that?
A. I see "12 months ending July 1990."
Q. I'm sorry, "12 months ending July 1990."
Now if we go down that column, we see 18 to 24.
A. Yes.
Q. Twenty-one percent; correct?
A. Yes.
Q. Now I looked at this and I got a little confused, and my adding may have been wrong, and maybe you can help me. I looked at 18 to 24, there's

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two columns there, 18 to 21 and 22 to 24; correct?
A. Yes.
Q. And if you add 14 and seven, you get 21 percent; right?
A. That's right.
Q. What's Y.A.?
A. Well I don't know, but it would seem to me to mean young adults.
Q. Well if I add 14 and seven, I get 21.
A. That's right.
Q. If I subtract seven from 14, I get seven.
Do you think young adults is under the age of 18, sir?
A. I have no idea, sir. I don't know what it means.
Q. Isn't it a fact that Philip Morris uses the term "young adults" internally to refer to teen-agers?
A. Absolutely not. I've never heard that in my life.
Q. You've never heard it.
A. I've never heard that in my life and I reject that.
Q. Have you ever seen this document?
A. No, I've not seen this document.
Q. Have you ever asked whether the term "young

adults" is used internally in Philip Morris to mean teen-agers?
A. No, I've never needed to, because we would know 18 to 24 is what we described, in anything I've seen, as young adult smokers.
Q. Sir, if you add up the 21 percent and then go gown the age groups, 26 percent for 25 to 34, and all the way down, don't you get a hundred percent?
A. Well let me -- can I do the add?
I get 129 actually, so let me do it again.
Q. Well you can't repeat the first 21 there, sir.
A. Yes, right.
In fact I get 109.
Q. Yeah. You get the young adults. Who's the young adult?
A. I don't know. Young adults to me is 18 to 24, sir. I can't explain this.
Q. But you have never asked anyone in the marketing department of Philip Morris U.S.A., "Are we using the term 'young adults' to refer to teen-agers?"
A. No, I have asked --
I don't recall I've asked, but I've seen young adults as described age 18 to 24. Categorically, I really mean that, categorically without any qualification, --

Q. Sir --

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A. -- so I have had no reason to ask anybody that question.
Q. All right. Is your answer to my question no?
A. No, because I've had no reason to, sir.
Q. Well it's a simple question. Have you asked anyone that question? "Yes" or "no."
A. No.
Q. Thank you.
A. Good.
Q. Now does Philip Morris have a policy of hiding research from public health officials?
A. Not to my knowledge, sir.
Q. Can you direct your attention to Exhibit 2548.
A. Yes, I have that.
Q. And this is a letter to -- or a memo to Helmut Wakeham; correct?
A. Yes.
Q. From Joseph F. Cullman III?
A. Yes.
Q. And again he's the former CEO and chairman of the board.
A. Yes.
Q. Sits on the board as chairman emeritus today.
A. He's invited to board meetings, yes.

Q. By you.
A. Yes.
Q. And we see that carbon copies of this went to George Weissman; correct?
A. Yes.
Q. Do you know what his title was?
A. Then I don't know, no.
Q. You see that one went to Paul Smith?
A. Yes.
Q. He was the general counsel of the company?
A. I believe he was. I never met him.
Q. One went to Ross R. Millhiser; correct?
A. Yes.
Q. He was vice chairman of the company?
A. I don't know what he was at that time.
Q. Well he became the vice chairman; didn't he?
A. He did become the vice chairman, yes.
Q. And Clifford Goldsmith, he became the CEO?
A. He became the CEO of Philip Morris U.S.A., I believe.
Q. Okay. The tobacco arm; correct?
A. The tobacco arm, yes.
Q. And in this Mr. Cullman is saying he enjoyed the conversation that he had last Thursday in Richmond with Mr. Wakeham; correct?

A. Yes.
Q. And he felt he had to clear the air somewhat on the strong stand he had taken in connection with certain kinds of research activities by Philip Morris; correct?
A. Yes.

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Q. Were those biological animal testing research?
A. I have no idea, sir, what it was.
Q. And he says that Mr. Wakeham had given him a better understanding of the rationale behind his position, and Mr. Cullman said "...I repeat my assurance to you that my position is not intransigent and that I am willing to discuss broad corporate policy in this area with you...;" correct?
A. Yes.
Q. And if we go down to the next paragraph --
Well before we go there, he says, "In the meantime, I believe that our present policy is the correct one and that the program you are carrying out in Boston is as far as we should go now." Do you see that?
A. Yes, I do.
Q. Do you have any idea what he's referring to there?
A. No, not -- not an idea, sir.

Q. Now he goes on in the next paragraph, "The possibility of getting answers to certain problems on a contractual basis in Europe appeals to me and I feel presents an opportunity that is relatively lacking in risk and unattractive repercussions in this country." Do you see that?
A. Yes, I do.
Q. Now that referred to animal research that Philip Morris had agreed with the other companies not to conduct in this country; isn't that right?
A. I have no idea, sir.
Q. Have you ever heard about that?
A. Heard about what?
Q. The gentlemen's agreement.
A. No, I've not heard about it, sir. I read about it in the newspaper once, I think, or some comment about it, but I -- I don't know anything about it.
Q. Well when you read about it in the newspaper, did you ask anybody to see the documents that might --
A. No, I did not, sir, no.
Q. Didn't you have any curiosity and say, "Gee, we had a gentlemen's agreement not to do research into smoking and health? Maybe I ought to look into this?"

A. I may have curiosity, sir. As I said, I could have spent the rest of my life looking backwards to all of those things. I decided to look forward.
Q. Well we're going to talk about how you looked forward in a minute. All right?
A. Thank you.
Q. But you didn't do that; did you, sir?
A. No, I did not.
Q. And in the next paragraph, sir, "I feel the influence you have been able to wield in connection with your activities on the Public Health Service

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Cancer Task Force has been very important and we must be kept informed on these activities." You see that?
A. Yes.
Q. Do you know if Philip Morris provided their internal research to the Public Health Service Cancer Task Force?
A. I have no idea.
Q. Well you know that last Friday was the first time all of the documents that were produced in Minnesota were ever made public; don't you?
A. No, I don't know that. I believe some of those in fact had been in the public arena before.
Q. Is that what you said yesterday?
A. No, I didn't say it yesterday. I was told last

night that some of them had been presented in cases, actually.
Q. Oh. How many, do you know?
A. I don't know.
Q. Handful?
A. I have no idea, sir.
Q. "I would like you to take a more positive position with respect to the activities of the CTR...." Now I know you just learned what the CTR was, but you know that's The Council for Tobacco Research; correct?
A. Yes, I do know that.
Q. Okay. And they were supposed to be doing research, independent research -- strike that. It's a misstatement.
They were supposed to be funding independent research; correct?
A. That's my understanding.
Q. And he goes on to say, "I would like -- would also like you to continue to keep us fully informed on research developments that you think would help Philip Morris and the industry to counter the attacks being launched against our products." Do you see that?
A. Yes, I do.

Q. Now those attacks related to the fact that cigarettes cause disease; correct?
A. I don't know what was happening then, sir.
Q. You have no idea?
A. No, I don't. I was in Europe at that time.
Q. Working for Philip Morris?
A. At that time I was, yes.
Q. And you just have no idea what was going on in the United States; is that right?
A. No, certainly I was not very familiar with what -- what was happening here. I'd just joined the company as a young man in those days.
Q. Just had no idea what was going on in the United States; is that right?
A. No, I did not have much idea what was going on in the United States.

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Q. Can you direct your attention to Exhibit 2554, which is the next exhibit. Now this is a document to Mr. Goldsmith; correct?
A. Yes.
Q. From Mr. Wakeham; correct?
A. Correct.
Q. Or Dr. Wakeham, excuse me.
And you recall that you testified you were familiar with INBIFO; correct?

A. Yes, I know of INBIFO.
Q. And do you see that this memo deals with whether or not Philip Morris should purchase INBIFO?
A. Well it says that somebody wishes to sell it.
Q. Okay. If you go down to the third paragraph, sir.
A. Uh-huh.
Q. "Since we have a major program at INBIFO, and since this is a locale where we might do some of the things which we are reluctant to do in this country, I recommend that we acquire INBIFO either in toto or to the extent of controlling interest." Do you see that?
A. Yes, I do.
Q. Now what was Philip Morris reluctant to do in this country?
A. I don't know.
Q. Were they reluctant to do research that might show that smoking causes disease?
A. I have no idea what they're talking about here, sir.
Q. Were they reluctant to do that because then they'd have to disclose that information if it was here in the United States?
A. Well as I told you, I have no idea.

Q. Now Philip Morris did buy INBIFO; did it not?
A. I believe so, yes. We own it today.
Q. Can you go to Exhibit 2688.
A. Yes, I have it.
Q. Now can you see that this is a document from Dr. Seligman to Mr. Max Hausermann, Philip Morris Europe S.A.?
A. Yes.
Q. Okay. Do you know Dr. Max Hausermann?
A. I had met him, yes.
Q. And he was the head of research and development at Philip Morris in Europe?
A. I'm not sure that he was, but he certainly worked in the research and development department there.
Q. Okay. And Dr. Seligman was in charge of research and development in the United States; correct?
A. I believe he was at some time, yes.
Q. Okay. Dr. Seligman writes to Dr. Hausermann, "Dear Max:

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"I received a copy of Helmut Gaisch's March 24, 1997, letter to Jerry Osmalov concerning pesticide residue analysis." Do you see that?
A. Yes.

Q. And do you know who Helmut Gaisch is?
A. I met him. He was in the R&D department in Europe.
Q. Okay. And do you know who Jerry Osmalov is?
A. No, I don't remember that name at all.
Q. "As you were copied, you know that Helmut was requesting that we send samples directly to INBIFO." Do you see that?
A. Yes.
Q. So in other words, someone at INBIFO was requesting Dr. Seligman send something directly to INBIFO; correct?
A. That would seem to be the conclusion, yes.
Q. "This suggested procedure is in direct conflict with our communications from the New York office." Do you see that?
A. Yes.
Q. Now you're aware, are you not, that Philip Morris, through its New York executives, made a decision that there would be no lines of communication between INBIFO and the United States?
A. No, I'm not aware of that.
Q. No written lines of communication?
A. I'm not aware of that, sir.
Q. Would you look at the next sentence, sir. "We

have gone to great pains to eliminate any written contract with INBIFO, and I would like to maintain this structure." Do you see that?
A. Yes, I do.
Q. "Therefore, I am advising Jerry Osmalov to continue sending samples to Neuchatel...."
What's Neuchatel?
A. It's -- it's a canton in Switzerland, and in fact a town in that canton.
Q. And that's where a subsidiary of Philip Morris was headquartered; correct?
A. That's where we have a manufacturing plant.
Q. "If this procedure is unacceptable to you, maybe we should consider a 'dummy' mailing address in Cologne for the receipt of samples." Is that correct?
A. That's what it says, yes.
Q. Does Philip Morris have a policy of setting up dummy addresses?
A. Definitely not to my knowledge, sir.
Q. Did you ever see this document before?
A. No, I've not seen this document before.
Q. Are you ashamed of this document?
A. I'm embarrassed by it. I don't know the background to it though.

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Q. "The written analytical data will still have to be routed through FTR" --
And what's FTR?
A. That stands for Fabric de Tabac Reunies. I think that means the General Tobacco Company. That's the French for General Tobacco Company.
Q. Subsidiary of Philip Morris.
A. Yes. That's the tobacco plant in Neuchatel that I just referred to.
Q. "The written analytical data will still have to be routed through FTR if we are to avoid direct contact with INBIFO and Philip Morris U.S.A. I'll leave it to you to decide which route you will follow."
Now does Philip Morris have a practice today of setting up dummy mailing addresses and sending information surreptitiously to these addresses?
A. Absolutely not to my knowledge, sir. Absolutely not. I would --
Q. To your knowledge.
A. To my knowledge. I can't expect to know everything in the company, but I can tell you categorically I have no idea of anything of that happening in our company today. Anybody who did that today would be fired immediately.

Q. Be fired immediately.
A. Immediately.
Q. Because they're violating their duty to the public; correct, sir?
A. Well because they're doing something I just think is wrong.
Q. Wrong. And if they're --
If they've done something wrong, they should be held accountable for it; shouldn't they?
A. Well I think that's correct, they should be held accountable for it.
Q. And --
A. But I don't know the background for this particular case.
Q. And that would be particularly true if they were setting up dummy addresses and sending information that related to the public health and safety; wouldn't it?
A. Well I don't know if that's what this is relating to.
Q. But if it did, that would be particularly true?
A. Well that's an assumption I'd have to make, and I don't know if I can make that assumption.
Q. Have you ever asked?
A. Ever asked what, sir?

Q. Whether or not the gentlemen's agreement involved setting up dummy addresses in order to keep

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information regarding public safety from the public?
A. No, I have not asked that, because I didn't know that's what was claimed to have been done.
Q. Well did you see that was claimed in the paper that you read when you saw the gentlemen's agreement?
A. I can't recall that.
Q. That's what it was about; wasn't it, sir?
A. Well I can't recall that, sir. You know, I've seen so much and read so much, I can't recall everything.
Q. Well you said that --
You said you didn't know that's what was claimed to have been done, but before that you said you had read the paper where you read about a gentlemen's agreement.
A. I read the mention of the term "gentlemen's agreement," yes.
Q. And the gentlemen's agreement that you read in the paper referred to the fact that there was an agreement among the companies not to do research; correct?
A. Well let me explain, sir. I quite often don't read full articles, I read headlines, and sometimes

if I feel that I have the time and it's of sufficient interest I would read the whole article. Often I'm very busy and I can't read the whole article.
Q. When did you see this article? While you were CEO?
A. Oh, I can't recall. I think in the last couple of years.
Q. Okay. So while you were CEO; correct?
A. Yes, that would be right, I think, yes.
Q. During the period of time that you understood that it had been reported that over 400,000 people a year die in this country as a result of smoking, during that period of time; correct?
A. Well that's what claims are made by the CDC.
Q. Yes.
A. Uh-huh.
Q. But you were aware of that during this period of time; correct?
A. Aware of what, sir?
Q. That there had been reports that over 400,000 people, by the Centers for Disease Control, they reported, that died every year in this country as a result of smoking.
A. Yes, I'm aware of those reports.
Q. And you were aware of those reports when you

read this article about the gentlemen's agreement; correct?
A. Well I don't think I read the complete article, Mr. Ciresi.
Q. I didn't ask you if you read the complete article.
A. Well you said when I read the article. I'm

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saying I didn't read the complete article to my memory.
Q. I don't want to quibble with you, sir.
A. Thank you.
Q. When you saw the article regarding the gentlemen's agreement, you were aware of the reports of 417,000 people a year dying; correct?
A. I was aware of the report by the CDC, yes.
Q. Now, you saw this article and you didn't have -- using your words -- sufficient interest to make an inquiry?
A. I didn't say that, no. I said often I don't have the time or sometimes sufficient interest to read every article that appears in the newspaper.
Q. And when you saw that article, and having in mind the number of deaths reported to be caused by smoking, you didn't have sufficient interest to read the entire article.

A. Sir, I've seen so many accusations launched and thrown at this company, often I just don't bother to read them. And I --
Q. You didn't --
A. I don't know if I read that article or not, quite frankly.
Q. So you just don't bother to read the accusations that are made against your company.
A. Well I find some of them so extreme and wrong and inaccurate, I just find it difficult to read every one.
Q. Well how would you know unless you read them and did the investigation as to whether or not they were right or wrong?
A. Because I've read enough of them in the past.
Q. But you didn't read this one.
A. I didn't --
I don't remember reading this one completely, sir. I certainly remember seeing the term.
Q. Can you direct your attention to Exhibit 3708.
A. Yes, I have that.
Q. Now this is a letter from Mr. Dunn to Dr. Osdene; correct?
A. Yes.
Q. November 3rd, 1977; correct?

A. Yes.
Q. "Proposed Study by Levy." Correct?
A. Yes.
Q. "I have given approval to Carolyn" -- or I -- I'm sorry, let me restart.
"I have given Carolyn approval to proceed with this study." Do you see that?
A. Yes.
Q. Would that be Carolyn Levy?
A. I have no idea.
Q. "If she is able to demonstrate, as she anticipates, no withdrawal effects of nicotine, we

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will want to pursue this avenue with some vigor. If, however, the results with nicotine are similar to those gotten with morphine and caffeine, we will want to bury it. Accordingly, there are only two copies of this memo, the one attached and the original which I have." Do you see that?
A. Yes, I do.
Q. Have you seen this before?
A. No, I've not seen this before.
Q. Has Philip Morris had a policy of burying research that shows health effects of smoking?
A. Certainly not to my knowledge, sir.
Q. Now you know Dr. Osdene testified here?

A. Yes, I do.
Q. Took the Fifth Amendment?
A. Yes, I -- I read that.
Q. You --
A. I, in fact, encouraged him not to.
Q. You encouraged him not to; didn't you?
A. Yes, I did.
Q. Did you grant him immunity from prosecution?
A. How can I do that?
Q. Couldn't do that; could you, sir? Could you?
A. How do I do that? I don't know how I do that.
Q. You couldn't; could you?
A. Of course I couldn't.
Q. No. But you said, "Go ahead, Dr. Osdene, you testify. I urge you to testify on behalf of the company;" didn't you?
A. I asked him to testify on behalf of the company truthfully, yes.
Q. Do you think he's got a right to protect himself?
A. Of course he does.
Q. Are you ashamed of this document?
A. Yes, I am.
Q. Can you direct your attention to Exhibit 2501.
A. Oh, sorry. It was looking for 25001.

Q. 2501.
A. Sorry.
Yes, I have that.
Q. I know that may be a little difficult to read, but these are handwritten notes by Mr. Osdene. Have you seen these before?
A. Yes, I have seen these before. This was shown to me at my deposition in Florida.
Q. It was.
A. Yes.
Q. Is that the first time you saw it?
A. Yes, it was.
Q. Number one, "Ship all documents to Cologne by Tom." Do you see that?
A. Yes, I do.
Q. And that's Tom Osdene; correct?
A. Well I don't know, but it -- I think they told

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me it was in my deposition, and I believe that.
Q. Number two, "Keep in Cologne." Correct?
A. Yes.
Q. Number three, "Okay to phone and telex (these will be destroyed)." Correct?
A. Yes.
Q. By the way, what was in Cologne?
A. I think that's where INBIFO is.

Q. Ah.
A. I think you saw that in the letter you showed me.
Q. Number four, "Please make a file cabinet -- available a file cabinet. Jim will put into shape." Do you see that?
A. Yes.
Q. And do you know if that's Mr. Charles?
A. I don't know.
Q. Are you aware that he testified here?
A. No, I'm not.
Q. If you go down to number five then, "We will monitor in person every two or three months." Do you see that?
A. Yes, I do.
Q. And do you know if Mr. Osdene went back and forth between the U.S. and Cologne to monitor some research that he was doing over there?
A. I have no idea.
Q. Did you ever ask him?
A. Did I ever ask?
Q. Yes.
A. No, I didn't know what Tom Osdene did.
Q. When you saw this memo last August, were you ashamed?

A. Yes, I was very ashamed and distressed about that.
Q. Very much ashamed.
A. Yes, I was ashamed.
Q. And in light of that shame, did you ask anyone whether these things were taking place?
A. Well I did actually ask if there were any documents that were lost, and I was told that there are -- the originals of all documents were maintained at INBIFO.
Q. Right, at INBIFO.
A. Yes.
Q. Who told you --
Who told you that, sir?
A. Actually I'm not quite sure who it was that told me because there were quite a few people around, but I was talking to a number of people and they told me that the --it could have been outside counsel, actually -- that the originals are all in INBIFO.
Q. Oh, your outside counsel told you that.
A. Yes, I -- it could have been. I can't remember exactly who it was, sir. If I could, I would tell

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you.
Q. "If important letters or documents" -- I'm reading from number six -- "If important letters or

documents have to be sent, please send to home. I will act on them and destroy;" correct?
A. Yes.
Q. And that is the words of Dr. Osdene; correct?
A. Well we're assuming that, and I think that's a fair assumption.
Q. That's the person you urged to testify and not take the Fifth Amendment.
A. That's absolutely right.
Q. Now you say that you want to look forward; correct?
A. Correct.
Q. It's not what you said in 1994; did you?
A. In 1994? No, I had just gotten my job in June of 94, I think it was, sir.
Q. And what you said in 1994 is, "We're not going to be anybody's punching bag;" didn't you?
A. Yes, I said that.
Q. And you said, "When you are right and you fight, you win;" correct?
A. That's what I said.
Q. And you declared an all-out war on tobacco's enemies; didn't you?
A. I believe I could have said that.
Q. Yes. And you unleashed a barrage of legal

attacks in newspapers ads; didn't you, sir?
A. I'm not so sure about that. I certainly was active, though, yes.
Q. Yes. And it was after all of these documents came out that you decided you were going to go to Congress and attempt to get an overall settlement; isn't it?
A. That's not correct.
Q. When did the documents start coming out in this case, sir?
A. I don't know.
Q. When did you go to Congress?
A. When did I go to Congress?
Q. When did you first go to Congress and ask for some relief?
A. Well we agreed with the states attorneys generals in June of 1997, and we talked with members of the White House, and we then have been trying to have that agreement legislated into law.
Q. So you went to Congress after 19 -- June of 1997; correct?
A. No, we didn't go to Congress in June of 1997, but after that, June of '97.
Q. That's what I said, you went to Congress after June of 1997; correct?

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A. Correct.
Q. And this lawsuit started in August of 1994. Are you aware of that?
A. No, I'm not.
Q. And are you aware that all the documents were being produced during that almost three-year period here in the state of Minnesota?
A. Well I thought they were being produced in 1996 or '7. I've forgotten.
Q. And you're aware that the Minnesota select documents were then provided to all the attorneys general across the country pursuant to protective orders; weren't you, sir?
A. No, I'm not aware of that.
Q. Nobody ever told you that?
A. Well they may have, but I'm not aware of them now.
Q. Just forgot; right, sir?
A. Sir, I have a lot to remember.
Q. I'm sure you do.
A. If I was told that, I don't remember today.
MR. CIRESI: Thank you. I have no further questions, Mr. Bible.
THE COURT: We'll recess at this time.
THE CLERK: Court stands in recess.

(Recess taken.)
THE CLERK: All rise. Court is again in session.
(Jury enters the courtroom.)
THE CLERK: Please be seated.
THE COURT: Counsel.
MR. BLEAKLEY: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. BLEAKLEY:
Q. Good morning, Mr. Bible.
A. Good morning, Mr. Bleakley.
MR. BLEAKLEY: Good morning, ladies and gentlemen.
(Collective "Good morning.")
Q. You and I do know each other; don't we, Mr. Bible?
A. Yes, we do, sir.
Q. You are the chairman and chief executive officer of Philip -- Philip Morris Companies; is that right?
A. That's correct, sir.
Q. And you've been the chairman and chief executive officer since when?
A. Well I was appointed chief executive officer in June 1994, and chairman at the end of January 1995.
Q. So there was a period there of several months

when there was another chairman?
A. Yes, for a period of seven months. And he retired, and I was appointed chairman upon his

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retirement.
Q. Tell us a little bit -- tell the ladies and gentlemen of the jury a little bit, if you would, about the structure of Philip Morris Companies and its operating companies or divisions or subsidiaries.
A. Right. Well Philip Morris Companies is the largest consumer package products company in the world, and it has -- it is a holding company, and underneath it it has five operating companies, each of which manufactures, markets and sells different types of consumer products. The five companies are Philip Morris U.S.A., domestic cigarette operation called Philip Morris U.S.A., Philip Morris International, which markets, manufactures and sells cigarettes around the world outside of the United States, Miller Beer, which is the second biggest beer company in the United States, Kraft Foods North America, which is the largest food company in North America, and Kraft Foods International, which is the largest U.S. international food company. There is then, besides that, a small capital corporation.
Q. What's the name of that capital corporation?

A. That's called Philip Morris Capital Corporation.
Q. And what does it do?
A. It invests in equipment which it leases back to proprietors, such as airlines or governments that might wish to lease power plants or Coast Guard ships, for example. So it leverages itself, buys equipment, and then leases that equipment back to other entities.
Q. Is that a large business or a small --
A. No, it's a small business. It would represent a very small part of the income of Philip Morris.
Q. Now Philip Morris U.S.A. is one of the operating companies under the Philip Morris Companies holding company; is that correct?
A. Yes, it's one of the five operating companies we call them, uh-huh.
Q. And Philip Morris U.S.A., is that the defendant in this case?
A. Philip Morris U.S.A. Inc. is the defendant in this case, the domestic tobacco company, yes.
Q. Does Philip Morris U.S.A. have its own chief executive, CEO?
A. Yes, it has its own chief executive and senior executives that report to him, such as the manufacturing plant, sales, marketing, research and

development. And the CEO of that company, just as -- as the CEO of each of the other four operating companies, all report in to a chief operating officer, and he reports to me.
Q. Who is the chief operating officer?
A. Mr. William Webb.
Q. And who currently is the CEO of Philip Morris U.S.A.?

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A. Mr. Michael Szymansyk.
Q. And is that what his title is, CEO, or is he president and CEO?
A. He's president --
I think he's president and chief executive officer.
Q. And is Mr. Szymansyk responsible for the day-to-day operations of Philip Morris?
A. Yes. For Philip Morris U.S.A., he is the officer responsible for all of those activities of that company.
Q. And that's basically the domestic tobacco company?
A. The domestic tobacco company, yes.
Q. What about the Philip Morris Research Center down in Richmond, Virginia, what -- what -- where does that fall in this organization?

A. That is in Richmond. That's where we have our largest cigarette manufacturing plant here in the United States. We have another large one, nearly as big, in Cabarrus in North Carolina. And the research and development center is located in Richmond, Virginia, where the biggest manufacturing plant is, and that reports in to the head of manufacturing and R&D operations. He reports to Mr. Szymansyk.
Q. The Philip Morris Research Center in Richmond reports to Mr. Szymansyk?
A. That's right, yes.
Q. Now how long has Mr. Szymansyk been the CEO of Philip Morris U.S.A.?
A. He was appointed the CEO -- I think it was in November when Mr. Morgan retired.
Q. So Mr. Szymansyk was preceded as CEO of Philip Morris U.S.A. by Mr. James Morgan; is that right?
A. Mr. James Morgan, yes.
Q. Is that the same James Morgan whose deposition we saw up on the screen here a few days ago?
A. That's right, sir, it is.
Q. And he retired?
A. He retired in November, yes. I think it was November. October, November.
Q. Just a few months ago.

A. Just a few months ago, yes.
Q. Now let's go back in -- in time and review the -- each of the positions that you've held with the Philip Morris organization during your career. When did you first go to work for Philip Morris?
A. I joined Philip Morris in Europe in October 1968.
Q. And what was the job that you -- you had at that time?
A. My title was the manager of finance at Philip Morris Europe.
Q. Of Philip Morris Europe?
A. Yes. It was a very small entity then. We

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hardly had any business in Europe at that time.
Q. And what did you do in that -- in that job?
A. My main function was to assist the senior executives of the company there to acquire other companies, to see if we could build our position in Europe.
Q. And how long did you hold that job?
A. I held that job for about two and a half years. I left Philip Morris in June 1970, so -- well nearly two years.
Q. So you worked at Philip Morris Europe for about two years and then you left the entire Philip Morris

organization?
A. Yes, I left the entire Philip Morris organization. I joined an Australian investment banking company in Switzerland.
Q. Where were you located when you were with Philip Morris Europe?
A. I was located in Lausanne, Switzerland.
Q. And was that the headquarters of Philip Morris?
A. That was the headquarters of Philip Morris Europe.
Q. And what was the position you had at the time you left Philip Morris Europe?
A. I was still manager of finance.
Q. For Philip Morris Europe.
A. For Philip Morris Europe, yes.
Q. Did you have anything to do with the domestic tobacco operations in the United States in that position?
A. No. Nothing, no. The companies --
It was a division then. No, quite distinct.
Q. And how long were you gone from Philip Morris?
A. Six years. I returned in June 1976.
Q. And were you in Switzerland during this entire six-year period?
A. Yes, I was.

Q. And what did you do for that company?
A. I worked with an Australian investment banking firm, and they were headquartered in Sydney, in Australia, where I grew up, and I used -- I was responsible for their activities across Europe, raising money for their clients on loans. And also they had stock brokering activities, and we took orders from investors in Europe who wished to invest in Australian equities.
Q. Did you have anything whatsoever to do with Philip Morris during that six-year period?
A. Nothing to my knowledge, sir.
Q. Did you have anything to do with the cigarette or tobacco business during that six-year period?
A. Not to my knowledge, no, sir. I was working with the Australian company.
Q. Okay. And you returned to Philip Morris in 1976?

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A. In June 1976, yes.
Q. And where? Where did you come back to Philip Morris and in what position?
A. I was appointed the director of planning, Philip Morris Europe.
Q. You were still with Philip Morris Europe.
A. In 1976 --

Well when I came back in June '76, yes, I was still with Philip Morris Europe, is my memory.
Q. And what were your duties and responsibilities as director of planning?
A. The company was still fairly small and growing, and we were trying to develop a more sophisticated means of planning our activities ahead, so my main function was to try to help people develop their plans for investment across Europe, Middle East and Africa. And so my main role was that, helping them put together a future -- a future, forward-looking plan, and looking for acquisitions that we might think were suitable to our business.
Q. What kinds of plans? Well let -- let me -- strike that question.
Did you make any acquisitions as part of your activities during that period of time?
A. No, I don't think we did. I was there from June '76 until October '78. We did a lot of work in looking for non-tobacco companies. We were seeing if we could find companies we could invest in apart from tobacco, but nothing ever came of those studies while I was there.
Q. And in 1978 did you move to a different position?

A. Yes. I was appointed vice-president of Philip Morris International, and I relocated to New York.
Q. And how long were you in New York?
A. I was sent to Australia in May 1981, so about two and a half years.
Q. And you were vice-president of what in New York?
A. Well I -- I didn't have a title. My responsibilities, though, were coordinating our business in Canada. We had a cigarette business in Canada. And I was made responsible in New York for our wine and cigarette operations in Australia, and I was appointed head of 7-Up International. We had acquired 7-Up, which is a soft-drink company, a few years before that, and they had a fairly sizable international business, so I was placed in charge of that also, running those three businesses out of New York.
Q. Now during the time when you were -- after you returned to PM Europe and held the position that you held there in planning and then in New York, did you have any responsibilities for the domestic tobacco business in the United States?
A. No, I had none, sir.

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Q. All right. Now in 1981, is it, that you --
A. Yes.

Q. -- went to Australia?
A. I think it was May '81 I returned to Australia.
Q. Okay. And how long were you there and what was your job in Australia?
A. I was there for nearly three years, and my job was managing director of Philip Morris Australia, which was a publicly listed company in those days. There were public investors. We were the majority shareholder, controlled it. And I was managing director of the holding company, which had two operating subsidiaries; one was the cigarette company and one was a wine company.
Q. Cigarette company in Australia?
A. In Australia, yes.
Q. Did it sell cigarettes only in Australia?
A. It -- mainly. It exported very small quantities to some of the Pacific islands and New Zealand.
Q. But basically in that part of the world.
A. Basically in that part of the world, yes.
Q. Not in the United States?
A. No, absolutely not, no.
Q. And you said there was a wine company?
A. There was a wine company. We had, I think, the largest wine company in Australia at the time.
Q. And you had responsibility for that as well?

A. Yes. That reported to me.
Q. What does the term "managing director" mean?
A. "Managing director" means you are the chief executive officer. That is a term more used in the English parts of the world, such as England and in the commonwealth countries such as Australia, New Zealand, Malaysia, Singapore.
Q. So it's essentially the equivalent of what we call a CEO?
A. Yes, that's -- that's -- that's correct.
Q. Okay. And I take it you had no responsibility for the domestic tobacco business of the United States during that period; is that right?
A. No, I had none whatsoever, sir.
Q. All right. 1983, where did you go and what did you do?
A. I returned to United States, I think it was in February 1984, and I was appointed executive vice-president of Philip Morris International, responsible in New York for our European and Canadian operations.
Q. And what were your duties and responsibilities in that position?
A. Right. Well by then the European business had grown and we had fairly extensive businesses in

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Europe, in the Middle East, in Africa and in Scandanavia, and we had a fairly sizable business in Canada, although we were the smallest, I think, of the three -- three companies in Canada. And I had in Europe two regional heads reporting to me, one ran essentially the markets that were in what's today called the European Union, because they had a common trade agreement, and another head of operations of what was called the Eastern European/Middle East/ Africa region. So these two people ran those two regions and reported to me. And then there was a managing director of a company called Benson & Hedges in Canada, which was our cigarette company in Canada, and he reported to me.

Q. And how long did you hold this job?

A. For a little over three years, I think, from 1984 to 1987.

Q. Was Philip Morris International located in New York?

A. Yes, the headquarters of Philip Morris International were in New York and are in New York.

Q. Okay. And what --

During this period 1984 to 1987, did you have any duties or responsibilities or involvement in the domestic tobacco business in the United States?

A. No, none whatsoever, sir. Entirely international was all.

Q. All right. 1987, what position did you assume?

A. I was appointed president of Philip Morris International.

Q. And what did you do as president of Philip Morris International?

A. Well in those days, to the best of my memory, we had five regions around the world, the two that I just mentioned, the European Union and the Eastern Europe/Middle East/Africa region, we had a Latin American region, a Canadian region, and then Asian Australia region, Asia Pacific region, so there were five regions, and each of those regions had a chief executive that ran those operations in each of those regions and they reported to me. I also had a staff in New York that reported to me on matters such as human resources, planning, finance.

Q. Did --

During this period was Philip Morris International in businesses other than tobacco?

A. We still had the wine company in Australia, I think, but I think 7-Up had been sold before I became the CEO and president of Philip Morris International. We may have had something in Latin America. Nothing

comes to mind. I think it was pretty much entirely tobacco.

Q. When --

What position did you assume next; that is,

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after being president of Philip Morris International?
A. I was appointed president and chief administrative officer of Kraft Foods in Chicago.
Q. When was that?
A. That was February 1990.
Q. So you moved from New York to Chicago?
A. Yes, I went to Chicago.
Q. And how long did you hold that position?
A. I held that position for about 16 months. That was February 1990 till about, I think, May 1991.
Q. Now during the time that you were president and CEO of Philip Morris International, did you have any involvement in the domestic tobacco business in the United States?
A. No, none whatsoever, sir.
Q. And during the time when you were with Kraft in Chicago, did you have any involvement in the domestic tobacco business?
A. No, none whatsoever.
Q. And Kraft is not a tobacco company.
A. Kraft is a food company, and the international

part of the Kraft operations was reporting in to the Kraft North American business, so it was one unit at that time. It subsequently split into two, domestic and international.
Q. And what happened after your 16 months as CEO with Kraft?
A. I returned to New York and I was appointed executive vice-president of Philip Morris Companies International, and my responsibilities then became the chief executive for all of our international tobacco business on all of our international food business.
Q. But not the tobacco business in the United States?
A. No, not --
I had no connection with that at all, sir.
Q. And how long did you have that job?
A. That would have been from around May -- April or May 1991 through, I guess, June 1994.
Q. And in June 1994 --
A. I was appointed chief executive officer of Philip Morris.
Q. Is it fair to say that until June 1994 you had never had any involvement or duties or responsibilities having to do with the domestic

cigarette or tobacco business in the United States?
A. Let me back up. My memory slipped. In --
Q. Forgot one?
A. Yeah.
Q. Okay.
A. In -- I think it was April 1993, a little over a year before I was made chief executive officer, my job changed and I was appointed executive vice-president of Philip Morris Companies, the

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holding company, responsible for worldwide tobacco.
Q. Okay. And what --
A. And at that point in time, may I say, both the international cigarette business and the domestic cigarette business reported to me.
Q. And to whom did you report during that time?
A. I reported to the president and chief operating officer of Philip Morris Companies.
Q. And that was?
A. Mr. Bill Murray.
Q. Okay. The same Mr. Murray to whom you reported after you became CEO of Philip Morris Companies.
A. That's right.
Q. Okay. So is it fair to say that prior to 1993, rather than 1994, you had no duties or responsibilities or involvement in the domestic

tobacco or cigarette business in the United States?
A. That's accurate, sir, yes.
Q. And during the period prior to 1993, did you ever have occasion to review marketing plans and domestic advertising in the United States for cigarettes?
A. No. I -- I would have seen some advertising from time to time because we had common advertising for some brands, but I was never part of any of the activities.
Q. Now let's go back to the period before you joined Philip Morris in Australia.
I take it you grew up -- you were born and raised in Australia; right?
A. Yes, I was born in the country, in Canberra, in Australia, and during the war we moved up to Sydney and I was raised essentially in Sydney.
Q. Canberra is the capital?
A. Canberra is the capital of the country, yes.
Q. And how old were you when you moved to Sydney?
A. I guess I was about five or six years of age.
Q. And did you go to school in Sydney then?
A. Yes, I went to school in Sydney.
Q. And I know you don't call it high school in Australia, but did you go to the equivalent of high

school in Australia?
A. I did. I went to a Christian Brothers School in Sydney and I was raised there, but I didn't complete my high school education. I had to leave school.
Q. How old were you when you left school?
A. I was 14.
Q. And why did you have to leave school?
A. Well my father passed away, and he owned a retail store at that time, and my mother had to enter hospital that week, and I was the only one available to run the store. I'd been working in my father's store since I was a youngster. So I had to run the store. And I ran the store probably for about eight months, and I tried by night school to continue my

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high school studies unsuccessfully, and then when my mother recovered her health and then she could run the store, I got a job in an accounting office. And that was in January 1953.
Q. In an accounting office?
A. An accounting office, yes.
Q. What kind of a store was it that you -- that your father had?
A. A retail store. The one that my father owned when he passed away was what we call in my country a milk bar, and prior to that he had owned a series of

like mixed businesses, general grocery type stores.
Q. But the one that you worked in when you were 14 years old --
A. Was a milk bar.
Q. -- was a milk bar. And you actually ran that store at the age of 14?
A. Yes, I ran that store at 14.
Q. Now did you --
Have you ever or did you ever or have you ever received the high school diploma?
A. No, I haven't.
Q. Now you said you went to work when you -- when your mother recovered and went back to running the store again?
A. Yes.
Q. You took another job then. You didn't go back to school; is that right?
A. No, I didn't go back to school.
Q. You took a job in an accounting firm?
A. In an accounting firm, yes.
Q. And how old were you then?
A. Well I was only 15.
Q. And what kind of job did you have in the accounting firm?
A. I joined as office boy. That was the term used

for the youngest entrant into the office. It was a very small office of about 20 people in total. And your job, then, is in fact a very interesting job, it was delivering the mail, emptying the wastepaper basket, making the tea, doing the banking, generally learning how life functions in businesses, because most of the clients were small companies or individuals in different types of businesses, and you'd be doing the small functions such as banking for them, or in those days you had to get an overseas tax clearance from Australia if you wanted to travel abroad to demonstrate that you'd paid your taxes before you could buy a plane ticket to leave the country, so I would have to go to the tax office and file those forms. I used to file forms for stamp duties and companies' statutory documents that had to be filed. So the purpose of the year of that training is to give you some exposure to how the commercial life works.

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After that year -- and you go to night school to study accounting, which I did. And then after that first year, they then began to expose you to bookkeeping and would teach you how to write up books, and then you would move into auditing, so you'd visit other firms and conduct with a senior

audits of companies that were clients. And throughout the course of those years my responsibilities grew and I finally got my degree as what's called in my country a chartered accountant, it's like a CPA in this country.

Q. So despite the fact that you don't -- you never received the equivalent of a high school diploma, you did eventually get this degree or diploma in chartered accounting?

A. Yes, that's right, sir.

Q. Is that like the CPA or certified public accountant here?

A. Yes, that -- that is the highest degree in accounting you can get in my country.

Q. And when was that? When did you get that diploma?

A. That was 1958.

Q. Okay. So you worked in the accounting firm from when until 1958?

A. 1953, January '53 until October '59 actually. I left that firm a year later.

Q. Was that in Sydney?

A. That was in Sydney, yes.

Q. Okay. What did you do in 1959?

A. I went overseas and joined a refugee

organization in the Middle East.

Q. All right.

A. And I was there for about five years.

Q. Where was that?

A. That was headquartered in Lebanon, Beirut. I spent probably a year there, and about six months in Syria, about six months in the Gaza Strip, about two and a half years in Amman in Jordan, which was the last job I had with that organization.

Q. What was the name of the organization?

A. It was called UNRWA, the United Nations Relief and Works Agency for Palestinian refugees.

Q. And what did you do?

A. I was -- I started out there as an internal auditor, and I used to travel around, and thus I was in Lebanon for some time, then I moved to Syria and then to the Gaza Strip. And then for the last two and a half years I was the chief financial officer of the organization in Amman, Jordan, where the largest number of refugees were.

Q. What did you do as chief financial officer?

A. We had a large budget which the United Nations gave for the refugee organization, and they had a wide number of schools, a couple of vocational

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training centers, one in Jerusalem, one in Ramallah, and a teacher training college in -- I've just forgotten the name now, I think Kalandia, and they had an extremely large range of elementary and secondary schooling facilities which was entirely financed by this organization to educate the refugee children. They had hospitals and clinics.

The basic function of the organization was to provide food, shelter, education and health services to the refugees, and my job was to control the financial aspects of this organization in Jordan.

Q. And when did you leave that position?

A. I left that position in August 1964.

Q. And what did you do next?

A. I then joined the International Labor Office in Geneva.

Q. And how long were you there?

A. I was there a year.

Q. What did you do for the International Labor Office in Geneva?

A. I was a chief budget officer at the ILO for a year.

Q. And what was that organization?

A. The International Labor Office is an organ of the United Nations, and they had various programs where they worked with government agencies,

representatives of employers and representatives of employees such as unions, to try to find common ground on many different areas that affect the work place. And they had seminars and meetings, and they developed the position and then they attempt to codify what they would believe to be an appropriate code of practice into different countries' laws.

Q. And how --

A. Like, for example, I remember one -- one seminar I worked on was the maximum number of bricks a bricklayer can carry in a day. Now that was a safety standard. That was a very significant activity. But there were conclusions drawn, and then they would try to encourage countries to codify that, those findings and standards into their law.

Q. And you held this position for 16 months; is it?

A. Well no, a little over a year.

Q. I'm sorry, for a little over a year.

A. Uh-huh.

Q. Okay. What was the next position, the next job you had after that?

A. I was then offered a job by ESSO Mediterranean Africa in Geneva, and I was there for two years as a financial analyst, and I was then promoted to manager of finance.

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Q. And where were you then?
A. In Geneva in Switzerland.
Q. Still in Geneva?
A. Yes.
Q. So you lived in Geneva for several years.
A. Yes, I did.
Q. ESSO is what we Americans think of as Exxon?
A. That's right. They changed the name around when I was there, yes.
Q. All right. And how long did you have that job?
A. I had that job for two years, when I was offered a job by Philip Morris, and that's when I joined Philip Morris in 1968.
Q. Did you get married during this period of time?
A. I did, yes. I met my wife on my way back to Australia actually. I decided to return to Australia from the Middle East, met my wife, fell in love, married her, and we settled in Geneva.
Q. And is your wife here in the courtroom?
A. My wife is here in the courtroom.
Q. Okay. You went to work for Philip Morris then in nineteen sixty -- sorry, but I'm not remembering these dates.
A. October '68.
Q. October '68. And except for the six-year

hitch --
A. Uh-huh.
Q. -- or six-year departure in the meantime, you worked for one or another of Philip Morris organizations ever since.
A. That's right, sir, yes.
Q. Okay. Let me go back for a moment to the five operating companies. You said that Philip Morris was the largest -- make sure I use the right term -- the largest package consumer goods company. Is that -- was that right?
A. In the world, yes.
Q. In the world.
What do you mean by that?
A. By the largest package consumer goods company? Well, consumer goods are things that people consume. By "package," that differentiates it between, say, refrigerators, lawnmowers, things of that nature. So generally packaged goods would be things like food stuffs, cigarettes, beverages.
Q. It does include the food business, doesn't it, --
A. It does include the food business.
Q. -- of Philip Morris?
What are some of the products that Kraft makes?

Are there any that are familiar with -- would be familiar to the jury?
A. That Kraft makes?
Yes. Kraft is the biggest food company in Australia -- in -- in the United States, by a long

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shot. It's the manufacturer and marketer of brands such as Jell-O, Maxwell House, Philadelphia Cheese, Oscar Mayer bacon, frankfurters, Altoids I see here, Toblerone chocolates, Digiorno Pizzas, Kraft Salad Dressing, Miracle Whip Mayonnaise. There's a huge -- Post Cereal is another one of the trademarks and brands.

Q. And you said, of course, that Miller Brewing Company is --

Where does Miller rank among the beer companies?

A. Miller is number two in the U.S.A. and number three in the world.

Q. Number three in the world?

A. Number three in the world, yes.

Q. And is Philip Morris a large taxpayer?

A. Philip Morris is the largest taxpayer in the United States.

MR. CIRESI: Excuse me. Your Honor, I'm going to object to this as totally irrelevant.

THE COURT: Sustained.

Q. Now tell us, what are your duties and responsibilities as the chairman and CEO of Philip Morris Companies?

A. Well in the organization structure we have, I have a chief operating officer who reports to me who runs the five operating companies I mentioned earlier, the two food companies, the two tobacco companies, and the beer company. I have a chief financial officer to whom the Philip Morris Capital Corporation reports, that's the company that does the purchasing and leaseback of equipment; I have an executive vice-president -- a senior vice-president of human resources reporting to me; a senior vice-president of manufacturing reports to me; senior vice-president of strategy and planning who reports in to me; the general counsel and corporate affairs report in to me. That's at the corporate level.

My day-to-day duties require me to, A, make sure that I'm reporting to the board of directors, with whom we meet generally monthly. We have a number of committees, probably half a dozen committees that are part of the board. I'm chairman of the finance committee, I'm also chairman of the contributions policy committee, I'm chairman of the diversity committee, which is a big function at Philip Morris.

The chief operating officer, who runs the five operating companies, reports to me, and he comes to me with issues of significance from time to time. And each month I have a meeting with all of the operating officers and what I call my senior management team, which is held monthly, and that includes all of my staff plus the five operating heads of the operating companies.

It is my job to establish policy on most major corporate issues, and so the staff people who report

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to me and have functions such as, say, human resources, the senior vice-president for human resources has a task of establishing salary policy with each of the human resources heads of the operating companies, salary conditions, conditions of employment, diversity policy and practices.

I review each quarter the budgets for each of the operating companies with the chief operating officer. We have an original budget which is planned for the forthcoming year. That is updated three times during the course of the year, so on four occasions of the year I go through all of those budgets for each of the companies.

I review with the board every month the activities of the company and generally bring them up

to date on the business of the company and matters pertaining to the company. I sit on each of the committees I mentioned to you.

I travel abroad quite a bit because we have about 100,000 employees around the world. We manufacture and market and sell our products in nearly 200 countries around the world. It's very important for me to see these people from time to time for me to understand exactly what is going on, if I can, in each of our businesses, and for the staff to see me is -- is very important. So I spend a good part of my time traveling to keep abreast of the business.

Oh, I could probably go on.

Q. Well let me ask you a couple of questions then.

A. Certainly.

Q. You said you had a hundred -- hundred thousand employees abroad; is that right?

A. We have 155,000 employees, I think, nearly a hundred thousand of whom would be overseas, outside the United States.

Q. So that's 50 some thousand employees in the United States?

A. It's 50 or 60 thousand, I think, here in the United States.

Q. How many shareholders does Philip Morris have?

A. Well I don't know, because the -- the information is a little bit difficult to gather because many shareholders or investors invest in Philip Morris through mutual funds or pension funds, but I would say there could be some 50 million shareholders of Philip Morris. I just don't know.

Q. Fifty or 15?

A. Fifty million, because of the investments held through mutual funds and pension funds.

Q. What do you mean when you say you review the budgets of your various operating companies? What does that involve?

A. Oh, well, when an operating company is developing its plans for the forthcoming year, it

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will estimate what its sales are going to be, it will do forecasts of the consumption of its products, it will establish targets or goals that they feel they can meet and ought meet to grow the company, they'll associate with that the manufacturing requirements, the staffing requirements to be able to achieve those goals, they will advise us of the capital expenditures needed to build plants and equip plants to meet the goals of the sales, and they will show the targeted profitability for the company for the

coming year and the returns and cash flow, and so I generally go through their presentation and comment if I feel appropriate.

Q. What involvement, if any, do you have in human resources?

A. Quite significant. We -- we have a compensation committee of the board which is composed of entirely independent directors of the board, that's non- -- non-executives of Philip Morris, and I attend that each month. I'm invited to attend it for part of the meeting.

The senior vice-president of human resources at Philip Morris helps to develop our salary plans, our bonus plans, our grading plans for grading employees, our appraisal and performance forms and methods of doing that, he's very important to the diversity policies that we develop in the company and establish in the company, so I work quite closely with him on each of those matters.

Q. Well let me ask you a question or two about the board of directors.

How many directors are there on Philip Morris's board?

A. I think we have 15 now.

Q. And how many of those are Philip Morris

employees and how many are not Philip Morris employees?

A. Two are employees, including me, and 13 are independent non-employees.

Q. And what kinds of people are these that are on the board of directors?

A. Generally I'd say there are seven or eight chief executive officers of leading public companies in the United States. We have one academic -- two academics, a retired Secretary of Defense. Essentially they're businessmen, with a couple of people from the corporate governance area, too.

Q. What do you mean by "corporate governance?"

A. Corporate governance, it's a field that's becoming more and more aware. It requires companies to conduct themselves ethically, to ensure, also, independence of the company's board of directors as much as possible from the executives of the company so the stockholders do have independent people representing the stockholders on the board of

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directors, and that the board of directors is not unduly influenced from inside the company.
Q. Do you report to the board of directors?
A. Yes, I report to the board of directors.
Q. And how often does the board of directors meet?

A. We now meet nine times a year for monthly meetings, we have an annual general meeting, and we have an off-site two- or three-day annual strategy meeting. Eleven meetings of the board. But there are many committee meetings around those.
Q. Do you attend all of the meetings of the board of directors?
A. Yes. I'm the chairman and I chair the meetings.
Q. We've heard references during this trial to annual meetings. Can you explain to the ladies and gentlemen of the jury what an annual meeting is.
A. Yes. The company is owned by stockholders who all have investments in the company, and they have a right to vote on matters that come before the annual general meeting, and that is, each year each company has to call its stockholders together, invite their stockholders to come and meet with the company where we take them through our results for the year, our operating results for the year. Generally -- certainly at our general meeting and most general meetings -- you have resolutions submitted by stockholders on different issues. The board of directors is appointed by the stockholders at the annual general meeting. The resolutions which are put before the general meeting are voted upon. That

would include, for example, the appointment of the external auditors that audit the company's books of account and report upon their financial performance for the year.
We get a fairly good attendance to our -- to our annual general meetings. It's conducted in Richmond. We have probably over a thousand people attend that meeting each year.
Q. We've also heard references to something called an annual report. What is that?
A. The annual report is -- again, it's another document required to be produced and issued to stockholders. It shows the financial results for the year, the financial condition of the company for the year. I write a letter to shareholders which I include in that. It has the auditor's report confirming the accuracy or otherwise of the balance sheet and income statement which is included in the annual report.
Q. Is that done in connection with the annual meeting, the annual report?
A. It's issued some six weeks or so ahead of the annual general meeting, along with a proxy statement which accompanies invitation for stockholders to attend the meeting or to vote at the meeting by

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proxy. So the --
Q. Sorry, I interrupted you.
A. The annual report would come out -- well I expect, for example, the 1997 annual report should be published and released sometime in the next two weeks, I would have thought.
Q. And then you'll have an annual meeting of shareholders after that?
A. Yes. That will be towards the end of April.
Q. And what is a proxy statement?
A. A proxy statement is where a stockholder, who may not be able to come to -- physically to the annual general meeting, can write in and vote upon each of the resolutions that are being placed before the meeting. For example, this year we'll be having our board of directors nominated for reappointment, and each shareholder is given the opportunity to vote upon each of those, for example, by mail, and mail that in.
Q. And are you personally involved in the preparation of the annual statement -- I mean the annual report?
A. Yes, I am, inasmuch as the letter to shareholders and the layout and content of the report I'm interested in. I like to see it's a good

production and that my letter is -- is one of confidence and optimism, and to reflect accurately the condition of the -- the financial condition of the company.
Q. And you participate, I take it, in the annual meeting then.
A. Yes, I chair the annual meeting.
Q. And that's in addition to the approximately eleven meetings a year that you have with your board of directors; is that right?
A. Well we have nine board meetings --
Q. Sorry.
A. -- plus the annual general meeting and an off-site planning meeting.
Q. Okay.
A. Strategy meeting.
Q. Eleven total.
A. Eleven altogether, plus a lot of committee meetings.
Q. Okay. Now you said that -- I think you said, correct me if I'm wrong, that there were three --
Well let me strike that. Start over again.
How many committees are there on the board of directors?
A. I think there are six formal committees for the

board of directors, and three or four informal

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committees that the board approves. But they are made up of employees, such as the diversity policy committee, diversity and affirmative action, where one outside director actually sits on the -- the committee, but the main committee is made up of about 20 senior executives from each of our operating companies and staff functions, and I chair that meeting.
Q. I think you said there were three committees that you chair; is that right?
A. Yes. There's the finance committee, the diversity committee, and the executive committee.
Q. Say that again. Finance committee, the diversity committee --
A. And the executive committee of the board.
Q. You mentioned a contributions committee.
A. Oh, yes. I also chair that, so there's four. The contributions policy committee.
Q. Okay. What is the --
What do you mean by "diversity?" What does "diversity" committee?
A. The diversity committee --
MR. CIRESI: Excuse me, Your Honor. I'm going to object. This is really irrelevant to this

lawsuit.
MR. BLEAKLEY: Your Honor, Mr. Ciresi has made a great point during this testimony for the last three days about punitive damages and the character of the company and the character of Mr. Bible, and I think we're entitled to explore that on direct examination.
MR. CIRESI: Your Honor, that's not a factor under the Minnesota statute, whether they have a diversity committee or not.
THE COURT: Seems to me a little -- little remote. I hope you're not going to spend too much time on it, counsel.
MR. BLEAKLEY: I'm sorry, I didn't hear you, Your Honor.
THE COURT: It seems a little remote. I don't think you should spend too much time on it.
MR. BLEAKLEY: I won't. I promise I won't spend much time on it, especially as we approach lunch break.
THE COURT: Especially, yes.
(Laughter.)
BY MR. BLEAKLEY:
Q. I think -- I think we have all received our admonition, so be very brief in describing the

diversity committee.
A. I shall, sir, yes. It is a committee where we try to establish standards to ensure that we can meet our goals for proper employment and promotion and advancement of all ethnic groups in the company, and females and males, and also for the conduct, a code

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of conduct as to how all employees should behave in the conduct of their jobs.
Q. Okay. And the finance committee, you're the chairman of the finance committee?
A. Yes, I am, I'm the chairman of the finance committee. That meets four times a year. And that committee essentially reviews the finances of the company, its cash flow, its capability of paying dividends, its capability of paying for capital expenditures necessary to keep the business running, for example.
Q. Does that committee take up a lot of your time?
A. Yes, it would take up a day a month.
Q. And the other one, I think, was the -- was it called the contributions committee?
A. The corporate contributions policy committee, yes.
Q. What's that?
A. Philip Morris is perhaps the biggest contributor

to charitable causes in the United States, and we meet, I think, four times a year to consider applications that are made to us or to consider decisions we make to make contributions to various charities. It's a very significant body; I take it very seriously. It takes a lot of my time. And we have changed the policy under my direction to focus more money in the area of hunger. Because we are the biggest food company in the United States, we think we can help enormously there. And particularly in the area of battered wives and children.
Q. Now have we left anything out? Are there any other duties and responsibilities or any other significant demands on your time as CEO of the company?
THE COURT: Excuse me, counsel, before you go ahead. I would just remind everybody that we want to keep the volume of our voices up so that the jury is able to hear what is being testified to, so I just mention that to emphasize that.
MR. BLEAKLEY: Sorry. Am I letting mine drop?
THE COURT: Well sometimes voices drop and the jury doesn't quite hear the question, or sometimes the answer, or sometimes the judge. So I'm

just reminding all of us that we want to make sure the jury hears what we have to say. Okay?
MR. BLEAKLEY: Yes, sir. I apologize if I let mine drop. I know I do sometimes.
BY MR. BLEAKLEY:
Q. Let's see, where were we? What was the last question? Oh, I know what it was. It was whether or not there are any other important, significant duties and responsibilities that you have as CEO that you haven't described here for us.
A. No. It's very hard to describe in a general

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sense what goes on all day. There are always issues arising almost every moment of the day that take up quite a lot of your time. But by and large I think I've -- I've described the essential parts of my daily activities.
Q. Is the --
The board of directors appoints the chairman; is that correct?
A. Yes, and the board of directors is appointed by the stockholders.
Q. And are you appointed or reappointed on a kind of periodic basis?
A. Yes, I'm reappointed at the annual general meeting.

Q. So you have a -- in fact a one-year term?
A. Actually I should back up on that. I think I'm chairman until such time as I'm removed, and I could be removed either by the board or by the stockholders not voting to reappoint me as a director at the annual general meeting.
Q. And may we assume that you're going to stand for reappointment or re-election this year?
A. Yes, I am standing for re-election.
Q. As chairman and CEO?
A. Well as a director.
Q. Director.
A. And then the board will need to determine whether they want to remove me as chairman and CEO, or let me continue my role.
Q. Okay. Now let me ask you this: When you became the CEO of Philip Morris Companies in 1994, what did you see as the biggest major challenges before you?
A. In June 1994. Well we'd just come off the back of what was called Marlboro Friday, that was April 1993, when I'd been made head of worldwide tobacco, so our domestic tobacco business was in a state of recovery, and that had been a very important event to the company, so I was keeping my eye on that.
Q. Let me -- let me stop you right there --

A. Hmm.
Q. -- because there have been some questions about Marlboro Friday during this trial. What exactly was Marlboro Friday?
A. Marlboro Friday was a Friday in 1993, in fact I think it was April 1 -- I could be wrong, but I think it was April 1, 1993 -- and it was a day on which Philip Morris U.S.A., the cigarette company, announced the reduction in the price, the retail selling price of Marlboro by approximately 40 cents a pack. The reason for that was that there had been a very intense price war going on between the tobacco companies here in the United States, and Marlboro had been losing market share, and we saw that cigarette companies were being -- were placing lower and lower price cigarettes on the market and our cigarettes

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were being out-priced. So we felt the only corrective action we could take to prevent the erosion of our market share was to reduce prices. So that happened in April 1993. It was a monumentous event, it hit the stock price of the company very hard, and there was a lot of controversy over whether that was the right thing to do or not to do by many people in the investment world and public analysts generally. So that was April '93. I was appointed

in June 1994 as CEO. So as I said, I was keeping my eye on that matter.

In February, I think it was, in 1994, some four months before my appointment, there had been, I think, a testimony by Dr. Kessler of the FDA essentially asserting jurisdiction over the tobacco industry by the FDA. There had been some fairly negative, in fact libelous coverage by television on Philip Morris and tobacco companies. There was a very significant congressional hearing in April, just before I was appointed CEO. There had been a number of lawsuits being filed.

We -- we traditionally have a number of individual lawsuits against the company, the cigarette company that is, and what we found -- or what I found when I was appointed CEO was that we'd been getting more lawsuits of a different nature. State attorneys general had started filing lawsuits against the company to recover Medicaid costs they felt had been spent on sicknesses or alleged to have been caused by smoking. Then there were class actions that were being filed against the company. So I sensed a growing number of lawsuits that were being filed.

There was much more media cover -- coverage

around the tobacco companies than there had been in the few years I'd been back in the United States, and a lot of that was concern about youth smoking, which had become a sort of touchstone or a lightning rod, and my general sense was that there was growing public concern about the tobacco companies.

Q. What -- what do you mean, "growing public concern about the tobacco companies?"

A. Well I think a lot of allegations had been made about the tobacco companies. In fact, I would have thought that people were considering us to be a rogue industry, that we were not regulated, that we were marketing cigarettes to youth, that we were not acting responsibly, and I was concerned by that. And so when I got my job, I found myself surrounded by a variety of issues.

Q. Now why were you concerned about these things?

A. Why was I concerned? Well I felt that many of these things could harm our company and our investors significantly, not to mention our employees and our suppliers. I think there are maybe two million jobs

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in the United States dependent upon the tobacco industry, and I think that has a very important economic impact.
Q. Now you mentioned youth smoking. What did you

understand the issue surrounding youth smoking to be when you assumed your duties?
A. Well I was able to observe a growing sense that cigarette companies were marketing cigarettes to youth and to young people, and that society was very concerned about this. The media was writing a lot about it. And that really troubled me very much indeed.
Q. Why did that trouble you?
A. Well, I was very much of the view that we should not be marketing cigarettes to children, I was of the view we did not market cigarettes to children, yet here we were accused of marketing cigarettes to children. I think the general belief was that we did market cigarettes to children. I felt that was unfair.
Q. Was --
Now was this litigation that you described, these attorneys general suits and class actions, of a different character than the kind of litigation that the company had faced in the past?
A. Well yes. I'm not a lawyer, but my understanding is that in the past we had generally had individual lawsuits filed against the companies. That is where an individual would bring a lawsuit for

alleged harm. Then we found that law firms got together and filed what's called a class action, which covers a great number of people's claims, and they'd filed those. And then state attorneys general -- and I've forgotten when the first case came up, but it was around the time, I think, that I was appointed CEO -- had begun to file lawsuits under what was seen to be a novel method at that time.
Q. And why were you concerned about these?
A. Well they were pretty significant and they were claiming large sums of money, and it occurred to me that the sums of monies involved were going to be beyond the capacity of the company to pay if we had a judgment against us.
Q. And you mentioned Dr. Kessler of the FDA -- I don't want to characterize your testimony, but I think you said asserting jurisdiction; is that right?
A. I think that's what he was attempting to do, yes.
Q. And why was Philip Morris concerned about the possibility of the FDA asserting jurisdiction?
A. Well my understanding of the FDA rules at the time were that they would be forced to ban the product under what is called the safe and efficacy rule that they have, that they cannot allow a

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product, as I understand it, to be marketed if it cannot be shown to be safe and efficacious.
Q. So you were concerned that the FDA might ban cigarettes?
A. Yes, that's what I was concerned about.
Q. Now you were shown an annual report, a 1994 annual report, I believe it is, by Mr. Ciresi, in which you talked about fighting the lawsuits that were before you.
A. Yes.
Q. And did that have to do -- anything to do with your concerns about -- about the future and what the major challenges were to you?
A. When I wrote the shareholders letter, that report?
Q. Yes.
A. Yes, I was concerned at the time about that, yes.
Q. And as Mr. Ciresi pointed out in his questioning, you said you were going to fight those suits.
A. Yes, I did.
Q. Now as you --
And did you consult with your executives and your colleagues at Philip Morris about these

challenges, what you saw to be challenges of the company?
A. Yes. Yes, I did, certainly.
Q. And what if anything did you decide as CEO of Philip Morris corporations to try to do?
A. Well that was very complicated and I found it a very intense and difficult period. I had a new job, it was a large job and with a lot of responsibility and a lot of people's livelihood involved, and I thought to myself and I talked to executives and I wondered what I could do to try to improve the situation that I met when I got my job, which I've just described to you. I think as I defined the situation, we had a lot of growing litigation, we had a large business to keep running because we have a lot of stockholders and investors, employees and other people dependent upon the company. And I was trying to figure out, well, I've been with this company something like 20 odd years, the last 10 years or so I've been living in the United States, and although I was not part of the United States tobacco company, I saw on occasions the growing concern about cigarette smoking and youth smoking, I was aware that there was litigation; pretty well every year there would be a case or two, and I

concluded -- with my executives, but I concluded that there has to be a better way than what the past was

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and what the current future held given the explosion, I would describe, of things that were happening around the industry and our company. So I wondered whether there was a better route and was there some way that we could try to satisfy all of the constituencies that were concerned about the company; i.e., those who were suing us, the states attorneys generals, the people who were behind the class actions, individual litigants, the public's societal concern about tobacco, the FDA who wanted to regulate tobacco. There was concern in Congress about the issue. The tobacco growers are very concerned about the future for tobacco growing; there are over 100,000 families, I think, dependent upon that. So all of those concerns formed me -- formed my conclusion that there has to be a better way of trying to resolve these issues. But at the same time I had to fight these lawsuits that were still coming at us.

So I felt that what I should do is try and run a parallel track; firstly, defend ourselves as robustly as we can in the lawsuits, and secondly, find a better way to resolve the issues that were growing.

Q. And what if anything did you decide to try to do to resolve this situation?

A. Well what I did, I consulted with my general counsel and in-house counsel and outside counsel to get a better understanding of the issues. (Coughing) Excuse me. I'm not a lawyer and I'm not that well versed in the law. And I then met with my board of directors to seek their guidance and counsel on the -- on the matter, and I decided that it would make a lot of sense if we could make touch, first of all, with the people who were suing us, and in parallel I worked with Philip Morris U.S.A. to see what they could do to address the concern of youth marketing and youth smoking.

So what we did there in that respect was to come out with what we called a triple A program that was Action Against Access, where Philip Morris of its own accord took initiatives to attempt to prevent young people having access to cigarettes. Our view was if kids couldn't get cigarettes, kids couldn't smoke cigarettes, so we introduced a program called Access -- Action Against Access. And we undertook a number of other steps voluntarily, such as we ceased sampling, we ceased distributing cigarettes through the mail, and other actions that we took. So we

undertook that program the following year. That was '95.

In '96 we undertook another program, together with U.S. Tobacco Company, which makes smokeless tobacco, and that was a program which went even further than the Access program I just described to you, and was promoting legislation to cover a great

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number of other things that could be done to attempt to contain the youth smoking issue. So we were doing those, and in parallel I was meeting with my counsel to see if we --
Q. Let me stop you there if I can --
A. Thank you.
Q. -- because I want to ask you a question or two about these programs. The first of these -- well I can't remember which came first. You said --
A. Action Against Access. That was May '95 I think.
Q. Now is that a program that Philip Morris adopted on its own without -- I mean this wasn't part of any kind of a settlement or anything?
A. No. It was a totally voluntary program which we felt was appropriate. As I said, we -- we thought that if kids could not buy cigarettes, then they couldn't smoke cigarettes. That was the thrust

behind the program.
Q. And what are the essential elements of the Action Against Access program?
A. Well the most important element is that we went through an education program with retailers encouraging them not to sell cigarettes to young people, and we advised them that if they were convicted of such, that we would withdraw our merchandising allowances to them after giving them a first warning. That was the most important.
The second one was we ceased sampling cigarettes, which had been a practice.
Q. What is sampling cigarettes?
A. It's where you would offer smokers one of your brands if they were smoking another brand, for example, to get them to try your brand and see if you could switch them from the brand that they're smoking to your -- your competitors' brand to your brand. Or sampling perhaps a new product to a smoker that they've not tried before and you were trying to launch into the marketplace. So we ceased that activity.
Q. Why did you cease that activity?
A. Because there was -- there was concern that it was difficult to distinguish between young people and

young adults, teen-agers and young adults, and there was concern that that may be a means by which teen-agers could get cigarettes, and we wanted to eliminate that concern as much as we could.
Q. And --
A. So we just abolished it.
Q. You did that voluntarily?
A. Voluntarily.
Q. No conditions?
A. No, no conditions.
Q. And then you said something about mail, about --
A. Yes.

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Q. -- sending cigarettes through the mail.
A. We ceased sending cigarettes through the mail. Often we send products to consumers on our mailing lists through the mail in certain promotional programs, and we ceased doing that.
Q. And why did you stop doing that?
A. Well, it was a little unclear that you could get absolute certainty about the age claims being made by the individuals to whom the cigarettes were being sent. We'd always asked for verification that recipients were 21 years and older, and we wanted to eliminate concern that they just could go to under-age people.

Q. This decision to stop sending cigarettes through the mail was a voluntary decision by Philip Morris?
A. Yes. Totally voluntary decision.
Q. And you mentioned some legislation that you sponsored jointly with -- was it U.S. Tobacco?
A. U.S. Tobacco.
Q. Who is U.S. Tobacco?
A. U.S. Tobacco Company is, I think, the largest manufacturer of smokeless tobacco, chewing tobacco, in the United States.
Q. Like snuff and --
A. Yes.
Q. Red Man?
A. I think that's the brand, yes. Yes.
Q. Okay.
A. And so we joined with them in an effort to try to develop even stronger programs, which we alone could not do, which would require legislation such as licensing retailers to sell cigarettes, controls at vending machines, for example, things that would require legislation. So we put forward the program, but we were unable to get enough support in the legislatures to get it converted into legislation.
Q. You mean in the state legislatures around the country?

A. State and federal.
MR. BLEAKLEY: Your Honor, I'm about to start a new subject. This would be an appropriate time for a lunch break.
THE COURT: We'll recess.
MR. BLEAKLEY: Okay.
THE COURT: We'll recess for lunch, reconvene at 2:00 o'clock.
MR. BLEAKLEY: Thank you.
THE CLERK: Court stands in recess.
(Recess taken.)

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AFTERNOON SESSION.

THE CLERK: All rise. Court is again in session.

(Jury enters the courtroom.)

THE CLERK: Please be seated.

THE COURT: Counsel.

MR. BLEAKLEY: Thank you, Your Honor.

BY MR. BLEAKLEY:

Q. Before the lunch break, Mr. Bible, we were talking about some of the actions that Philip Morris has taken voluntarily in the last two or three years in the area of youth smoking. I want to go back for a moment now to the question that I asked you which was when you described the major challenges that were facing Philip Morris when you became CEO and what you tried to do about a long-term resolution to these problems. Do you recall that?

A. Yes, I do, sir.

Q. Now when you decided that Philip Morris needed to try to come to a long-term solution to the problems which you described, including litigation and potential FDA regulation and public perception and the like, how did you -- did --

Let me ask you this first: Did the fact that documents were going to come out in the course of

some of this litigation play any role in your decision to try to seek a global solution to these problems?

MR. CIRESI: Objection, it's leading, Your Honor.

THE COURT: It is leading, counsel.

Q. Would you explain once again what the considerations were that led you to decide that you needed to try to arrive at a global solution?

MR. CIRESI: Objection, asked and answered.

THE COURT: No, you may answer that.

A. Yes, sir. When I arrived at my job as CEO in June of 1994, I was very conscious of the swirling public perception about the tobacco industry, the growing litigation, the concern among society about youth smoking. Many members of Congress were concerned about that also. And I felt that we had a commitment to our company, our investors, our employees, and all those people who depended upon our industry for their livelihoods to try to find a better solution than that which we'd been following for the prior 40 years, as far as I could establish,

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and so I turned my mind to that.
Q. You mentioned some of the attorneys general suits that had been brought against Philip Morris.

A. Yes, that's right.
Q. Can you tell me which was the first of these Attorney General actions that was brought against Philip Morris, the first in time, by what state?
A. To my recollection, the first state was Mississippi.
Q. And who was the Attorney General on that case?
A. That's Attorney General Moore.
Q. Attorney General Michael Moore?
A. Michael Moore, yes.
Q. And he brought the first such action?
A. That's my recollection, sir, yes.
Q. Okay. Now having decided that you needed to come to some kind of global resolution of all these problems, how did you decide to go about trying to accomplish that?
A. Well I talked with my senior executives over the ensuing six months. I became chairman then in January 1995, and I had talked with some of the members of my board, I'd met with some outside counsel to the company, and we concluded that there may be an alternative route to that of the past and that perhaps we should try to formulate some means of resolving each of the issues that seemed to be troubling everybody, such as youth smoking,

regulation of the tobacco industry, the litigation. Could we resolve that in some way other than 40 more years of courtroom battles?
And we met and we finally concluded, I think -- sometime in 1996 I think it was, that we should try to take some positive steps to make something happen.
Q. And how did you think, if at all, that could be accomplished?
A. Well I thought that that could best be accomplished by federal legislation. From all of the advice that I had received, that that would be the most effective way of trying to achieve what we thought would be the best solution.
Q. And why did you think the federal legislation was the best way to accomplish all of these objectives?
A. Well one of the things that seemed to be required was some controls over regulating the tobacco industry. We believed that Congress was the appropriate body to determine the future of the tobacco industry, and if regulation were to be determined, then Congress should be the body that determined that.
We believed that in order to achieve some

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resolution, we would need to concede some of our marketing activities, and we felt that it would be appropriate that that would be encapsulated in federal legislation so it was uniform across the country. I think that this was a national issue for society that deserved the attention of the national -- the highest national forum, which is Congress. So those were generally the -- the conclusions that I came to.

I also felt, I should add, that if we needed to find some solution to the litigation, that that would require some form of federal solution.

Q. And what happened next? What did you do -- did you do to try to accomplish this?

A. Well I think it was probably late '96, second half of '96, early '97, we attempted to explore ways to feel out how we could best go about this. We got some advice from the White House, who understood what we were trying to do --

MR. CIRESI: Your Honor, I'm going to object to the reference as hearsay. Move that it be stricken.

THE COURT: That will be stricken.

MR. BLEAKLEY: Your Honor, I have not asked for nor will elicit hearsay. I asked him what he did

in order to try to achieve this.

THE COURT: His response was hearsay. It will be stricken.

Ask another question, counsel.

BY MR. BLEAKLEY:

Q. What else did you do to attempt to accomplish this?

A. We then made contact with some attorneys general, state attorneys general, and members of the public health community, and legal representatives of some groups that were suing us in class actions.

Q. And what came about as a result of those discussions?

A. We -- we met with them, I think it was in April 1997, in Washington, and we decided to start negotiating some form of resolution along the lines I described to try to resolve the various issues which I think I've just described. And that took about three months and concluded after long, hard negotiations with all parties -- which reached an impasse on several occasions -- in an agreement which was signed on June 20, 1997 between the state attorneys generals -- a majority of state attorneys generals, some representatives of the public health officials, and representatives of some class action

suits that were filed against us, and the tobacco companies.

Q. Was the Attorney General of the state of

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Mississippi one of those with whom you negotiated?
A. Yes. I would define him as the -- the lead negotiator.
Q. And did you reach an agreement with these people?
A. We did. We reached an agreement ultimately about three months after we commenced negotiations, and that was reached, I think, on June 20.
Q. And that's what is referred to sometimes as the national resolution; is that correct?
A. That's correct, sir.
Q. All right. I'm going to come back to that in a moment.
But let me ask you this: What has happened to this agreement, this national resolution, since you entered into an agreement with these attorneys general and public health officials and representatives?
A. Well my best description as to what has happened is that it has been picked up by many members of Congress. There have been -- (clearing throat) please excuse me -- there have been many committee

hearings in both houses of Congress. I've testified at some of those, many experts have testified at some of those, trying to, I imagine, get input from all various segments of society and professions, and the proposed resolution is moving forward. I believe there have been a number of bills presented and some, I believe, are moving to markup fairly soon. So there's been a lot of debate in Congress about it.
Q. Now you said "bills." What do you mean by "bills?" Do you mean proposed legislation?
A. Proposed legislation, yes. I'm sorry.
Q. Has any legislation incorporating the terms of the national resolution been introduced?
A. Yes, I believe that Senator McCain has introduced a bill which fairly closely follows the proposed resolution. He has added a provision, I believe, to accommodate an economic impact that might be felt by tobacco growers, because if the proposed resolution were enacted into law, it would result in less cigarettes being sold, less tobacco being grown, and the growers would be impacted. So he's made provision for that in his proposed bill.
Q. Have other bills or proposed legislation been introduced different from what's in the national legislation?

A. Yes, I believe so. I believe Senator Jeffords has a bill, I think. I think there's a -- a task force that was formed in the Senate by Senator Conrad that was established to look at the proposed resolution which we signed and see if they feel any amendment should be made to it. And they have made amendments to it, I believe. And I think he's moving forward with proposed legislation based on the report

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of the Conrad committee, I think.
Q. And those bills are now under consideration by the United States Congress; is that right?
A. That's my understanding, sir, yes.
Q. And you said there have been hearings, public hearings at which people have testified?
A. Yes, there have been many.
Q. And have you personally testified?
A. Yes, I've personally testified at two.
Q. Have other representatives of the cigarette industry testified?
A. Yes, they have.
Q. Public health officials testified?
A. Yes, they have.
Q. And other interested parties?
A. Yes. Other interested parties, yes.
Q. Have some of the attorneys general testified?

A. Yes, I believe many of them have.
Q. So what's going to happen to this legislation now? What is your understanding of what's going to happen?
MR. CIRESI: Well objection, that calls for rank speculation on the part of this witness.
THE COURT: Sustained.
MR. BLEAKLEY: I did not mean whether it's going to be passed or not, Your Honor, I just meant what the next step was in the process.
A. The next step in the process, this is an election year and --
MR. CIRESI: Well, Your Honor --
MR. BLEAKLEY: Just -- just say what you understand the next step in the process will be, --
MR. CIRESI: Excuse me.
MR. BLEAKLEY: -- not what's going to actually happen.
MR. CIRESI: Excuse me. May I make an objection?
It's irrelevant.
THE COURT: Counsel, where are you going with this?
MR. BLEAKLEY: All I want to establish is what the current status of the legislation is, that

is all.
THE COURT: I think he stated what the current status is. I believe your question calls for what's going to happen in the future, and probably not a lot of us can forecast that.
MR. BLEAKLEY: Okay. I'll move on.
BY MR. BLEAKLEY:
Q. Now let me show you, Mr. Bible, what has been marked --
MR. BLEAKLEY: May I approach, Your Honor?
THE COURT: Go ahead.
Q. -- has been marked as Plaintiffs' Exhibit 24291.
MR. BLEAKLEY: I'll get a copy of that for

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Your Honor.
(Document handed to the witness and the court.)
Q. Do you have what's been marked as Exhibit 24291 before you?
A. Yes, I do, sir.
Q. Would you --
Can you tell us what this document is?
A. It's a Form 8-K filed by RJR Nabisco Holdings Corporation, dated June 20, 1997.
Q. And does it include the national resolution negotiated with the attorneys general?

MR. CIRESI: I'm going to object to the form of the question, it assumes facts not in evidence. And there is no agreement, there's a proposed agreement.
THE COURT: Rephrase the question, counsel.
Q. Does it include -- well it does --
MR. BLEAKLEY: It is an agreement with the attorneys general with whom it was negotiated. It hasn't yet been passed as legislation.
THE COURT: Counsel, we really don't want your testimony. Would you rephrase the question to the witness.
Q. Can you tell me what is included within the Form 8-K of R. J. Reynolds?
A. Yes. It's the proposed resolution which we signed with the states attorneys general on June 20.
Q. And is that the document that we've been talking about here?
A. Yes, it is.
MR. BLEAKLEY: We'd move the admission of Plaintiffs' Exhibit 24291.
MR. CIRESI: No objection, Your Honor.
THE COURT: Court will receive 24291.
BY MR. BLEAKLEY:
Q. Now let me ask you to describe in your own words

the essential elements of this resolution.
MR. CIRESI: Objection, Your Honor. It calls for speculation on his part.
THE COURT: Well I think he can give his -- his version or his interpretation.
THE WITNESS: I'm sorry, Your Honor?
THE COURT: Go ahead.
THE WITNESS: Thank you.
A. The proposed resolution we signed with the states attorneys generals and other parties virtually falls into what I would call two buckets, one bucket is where we undertake to give up many of our marketing activities and constitutional rights and submit ourselves to regulation from the FDA --
MR. CIRESI: Your Honor -- excuse me, Mr. Bible. Your Honor, I'm going to object to this narrative type where he's talking about constitutional rights unless they want to qualify him

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as a lawyer as to what is constitutional and what is not.

THE COURT: Yeah. I don't think that's appropriate and that answer will be stricken. Why don't you re-ask the question --

MR. BLEAKLEY: Okay.

THE COURT: -- to avoid getting his version

of what his constitutional rights are.

MR. BLEAKLEY: We'll leave out the constitution.

THE COURT: All right.

Q. Answer the question, but without commenting on your constitutional rights.

A. All right. We will be submitting ourselves to FDA regulation. We shall be subject to marketing restrictions; for example, there will be no more billboards that will be seen outside in the United States at all, there will be no more stadia signs, there will be no more taxi-top signs, there will be no signs in stores that could be pointing outwards. There will be no sponsorship of events at all by tobacco companies. There will be no branded items with cigarette brands on items, promotional items. We shall be subjected to what's called a look-back provision which means that we need to hit certain targets over a period of five, seven and 10 years whereby youth smoking, that is, teen-age smoking, is reduced by 30 percent after five years, 50 percent after seven years and 60 percent after 10 years. If we -- if youth smoking is not reduced by -- to those targets, we are subjected to a penalty of 80 million dollars a year for each point by which we miss the

target.

We'll be putting new warning labels on packs that will occupy 25 percent of the face of the pack, at the top of the pack, and they will be black on white or white on black. I don't quite remember each of the warnings, but I do have a note of them here if I could read them to you. The new warning labels will read cigarettes are addictive, tobacco can harm your children, cigarettes can cause fatal lung disease, cigarettes cause cancer, cigarettes cause strokes and heart disease, smoking during pregnancy can harm your baby, smoking can kill you, tobacco causes fatal lung disease in non-smokers, quitting smoking now greatly reduces serious risk to your health.

In addition to that, we'll be disclosing all of our health research going forward with the FDA, 100 percent. All research will be conducted and will be shared with them.

There will be a billion dollars a year set aside each year for funding cessation programs, smoking cessation programs, if people wish to undertake those. We'll be -- we'll be paying --

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MR. CIRESI: Your Honor -- excuse me, Mr. Bible. If he's going to testify from a sheet of

paper, can we mark that as an exhibit --
THE WITNESS: Sure.
MR. CIRESI: -- and have it entered into evidence?
THE COURT: Mark the paper, please.
MR. BLEAKLEY: What is our next exhibit number?
We'll mark this as 25006. Is that what this says?
MR. CIRESI: That's correct.
MR. BLEAKLEY: Mark that as Exhibit 25006, a document entitled "Proposed Resolution."
A. There will be payments made by the tobacco industry totaling 368 billion dollars over 25 years and into perpetuity.
Q. What do you mean "into perpetuity?"
A. That's forever. So each year we'll continue to make a payment.
Q. The 368 billion is for the first 25?
A. It's for the first 25 years, yes. And then each year thereafter there will be a significant sum paid to the government and the states.
We will be dissolving The Tobacco Institute and also The Council for Tobacco Research will be dissolved. We'll be subject to a comprehensive

system of enforcement on everything we do in our manufacturing and marketing practices and subject to serious penalties in the event that we should breach any of those. And there will be -- 25 billion dollars of the 368 billion dollars shall be set aside for public health research.
Then under the agreement there will be civil liability protection --
Q. Before you -- before you get to the civil liability protection, let me ask you a couple of other questions.
First, is there anything in the resolution dealing with prices, cigarette prices?
A. Yes, there is. The sums of money that are being paid over, we are obliged under the agreement to pass those through in the cigarette pack prices to the consumer.
Q. Would that be a part of the legislation if enacted?
A. Under the proposed resolution, if it were enacted, that would be.
Q. Now is there anything in the resolution dealing with environmental tobacco smoke?
A. Yes, there is. There are nationwide standards established on public smoking restrictions, that I

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believe can be amended by the states.
Q. I'm sorry, I interrupted you. You started to describe the civil liability. Is that what you called it, civil liability?
A. Yes, limited civil liability protection. Under the proposed resolution all addiction class actions are being settled, but no future class actions can be brought. It settles all states attorneys general cases, of those who signed. There will be no aggregation of claims for trial, but it permits aggregation for -- aggregation for discovery. It establishes a document depository --
MR. CIRESI: Your Honor --
A. -- for everyone --
MR. CIRESI: Excuse me, Mr. Bible. At this point he obviously doesn't know what's in it because he's reading. We're going to object and resort only to the document. The document speaks for itself at this point, Your Honor.
MR. BLEAKLEY: Well Your Honor, I think he does have personal knowledge. He's using this as a refresher. There are a lot of provisions in the agreement.
THE COURT: He doesn't seem --
He seems to be reading the document, which is an

improper use of the document.
MR. BLEAKLEY: I move the admission of the exhibit. I can't remember the number.
MR. CIRESI: 25066.
MR. BLEAKLEY: 25066. Move the admission of the document.
MR. CIRESI: The summary?
MR. BLEAKLEY: Yes. Exhibit 25006.
MR. CIRESI: We object. We thought it was being used to refresh his recollection, and he's reading from it. The document is in evidence now, the settlement, Your Honor, which is Exhibit 24291. So we object to the -- the exhibit that was used to refresh his recollection.
MR. BLEAKLEY: Your Honor, could we have a side-bar on this briefly?
THE COURT: Sure.
MR. BLEAKLEY: Thank you.

(Side-bar conversation as follows:)

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(Side-bar concluded.)

BY MR. BLEAKLEY:
Q. Mr. Bible, I'm going to ask you to put aside the document we just marked as an exhibit --
A. I have.
Q. -- and try to answer as best you can from your personal recollection some of the questions that I have put to you or will put to you. Okay?
A. Certainly.
Q. Thank you.
Now, try to explain from your own recollection what the -- what you have described as the civil liability provisions of the proposed resolution are.
A. Yes. My understanding of the civil liability protections are that we should be setting aside every year five billion dollars for individual -- individuals who wish to bring lawsuits against the company, and should they succeed and get a judgment, then it would be paid out of the five billion dollars. In the event that any individual judgment

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exceeded a million dollars and the five billion dollars was all absorbed in that one year, then any judgments exceeding a million dollars would roll over into the next year and would be paid in the succeeding year. So -- and then the five billion dollars would be available the following year, and

the same procedure would follow. And that would be the case every year thereafter.

At the same time there would be no more class actions that would be brought. There would be settled punitive damages for all past actions of the companies. The 368 billion dollars would settle all compensatory and class-action claims of the past. There will be punitive damages permitted going forward, is my understanding.

I believe that individuals who wish to sue may be able -- or will be allowed to aggregate their -- their claims for pretrial motions and for discovery.

Nothing else comes to my mind just now, sir.

Q. What if anything would it do with the attorneys generals cases that you talked about earlier?

A. Well they would be settled under the proposed resolution also, yes.

Q. And is there any provision in the national resolution for what happens to documents?

A. Yes. There is a provision in the national resolution that a depository -- a depository would be set up, I believe it's in Washington, and all the documents on smoking and health would be deposited in that depository and would be available to the public, to everybody. And to the extent that there are any

privileged documents that are classified as attorney-client privileged, then a three-court -- three-judge panel would be established, it would be an independent -- independently appointed three-judge panel, and that three-judge panel would determine whether any of those documents are appropriately classified as attorney-client privileged or not, and if they were not, then they, too, would be placed in the depository, and if they were, then they would not be placed in the depository.

Q. Of this 368 billion dollars that would be paid out over the first 25 years, is there a breakdown of what's going to happen to that money?

A. Yes, there is a breakdown. I don't have it completely in my mind, but my understanding is that in the first year the sum that is paid is eight and a half billion dollars, it rises to 9.5, then I think 11.5 billion dollars in the third year, I think 13.5 billion in the fourth year and 15 billion dollars in the fifth year, based on cigarette volumes today. It is allocated, I think, as to roughly half to the states and the other half is divided up into, I believe, smoking cessation programs, 25 billion dollars is going into public health research, half a

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will be devoted to anti-youth smoking advertising, certainly not under our control but by the public health officials. Those come to my mind. There may be others, but I don't remember them just now, sir.
Q. Now since you entered into this -- excuse me, the industry entered into this agreement with the attorneys general, what has happened to the various state attorneys general cases that were going on around the country?
A. There were three cases that had what I would call early trial dates, they were Mississippi, Florida and Texas, and those cases have each been settled between the tobacco companies and those states.
Q. And what has happened to those cases?
A. They've been settled and they're now dropped.
Q. And how were they settled?
A. We paid a sum of money to each state and the lawsuit was then dropped, I suppose is the layman's term that I would use.
Q. Were they in accordance with the national resolution or settlement?
A. Yes, they followed very closely the national -- the proposed national resolution, yes.
Q. Did you say one of those was Mississippi?

A. Mississippi was the first, to my recollection.
Q. But it's been settled?
A. That's been settled, yes.
Q. And that's Attorney General Moore?
A. Attorney General Michael Moore, yes.
Q. Now let me ask you to go back for a second to the list that you made up of the various terms and ask you whether or not there are -- just on the front page, if you would, on the advertising and marketing restrictions --
A. Am I allowed to look at this?
Q. You can look, and if there's something you forgot, you can tell us.
A. Oh, I see. Thank you.
Yes, I forgot the access provisions, which are very important.
Q. What are they?
A. The access provisions require that a cigarette shall be sold only to 18-year-olds -- people of 18 years or older. That all transactions must be face-to-face. That no cigarette packs or dispensers will be within reach of any customer. In fact, they will all be behind the counter and not within reach. I think the retailers need to display a sign. In fact, I believe they have those signs up today. All

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vending machines would be banned throughout the country; they'll all disappear. And all retailers would be required to be licensing -- licensed to sell cigarettes.

I think that covers most of the requirements. Should I look to see if there was anything else?

Q. Yes, please.

A. Oh, yes, one final point that I forgot, and that is that we have agreed with the states attorneys generals and the public health officials that we shall disengage further in any public debate on the issues of addiction and causation. The public health officials felt that the tobacco companies had obstructed the message that the public health officials wished to convey to the American people, and we agreed that we would no longer debate the issues of addiction and causation, and we shall no longer engage in public debate on that matter. We shall remove ourselves completely from the forum and allow the public health officials to convey that message totally unobstructed, and we shall only engage in debate in order to defend our position in a courtroom or forums such as that nature.

Q. Has the industry, have the defendants, has Philip Morris, entered into a settlement with the

state of Minnesota in its attorneys general -- attorney general case?

A. No, we've not, sir.

Q. Do you know why?

MR. CIRESI: Well, Your Honor, I'm going to object to that. It's irrelevant.

THE COURT: Sustained.

BY MR. BLEAKLEY:

Q. Now, why did Philip Morris, why did you as chief executive officer of Philip Morris decide to enter an agreement of this kind with all of these provisions?

A. Well, sir, as I expressed a little earlier, when I aggregated the concerns that I had been able to assimilate, I was very worried about the future of the industry and my company and all the constituents who are dependent upon my company. I was very concerned about the issue of youth smoking and I recognized that the American population saw it as a senior societal issue, it needed to be resolved, it should be resolved, we wanted it resolved. I think the question about smoking had become a major societal issue in general, and I felt that the most senior body in the country should determine whether 50 million Americans should be allowed to continue to smoke or not, and that if we could find some way of

putting all of these things together in some satisfactory resolution, we could resolve all of the issues that were confronting us and the American society, then it would certainly establish a base point for us to move forward, for certainly Philip

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Morris to continue to be a viable entity as we move forward, for the investors who have their investments in our company to feel satisfied that their investments were not at risk, and generally, as far as I am concerned, to allow Philip Morris to join the table of corporate citizenship where I think it truly belongs.
Q. Have you given any thought to what you as the CEO of Philip Morris will do if this national resolution -- resolution is not incorporated into federal legislation?
MR. CIRESI: Objection, irrelevant.
THE COURT: Sustained.
Q. Now let me turn to another subject, Mr. Bible.
Is Philip Morris engaged in efforts to develop new products, new cigarette products today?
A. Yes, we are.
MR. CIRESI: Object -- excuse me, Mr. Bible. Objection, Your Honor. If it relates to matters after August of 1994, no discovery was

allowed.
THE COURT: You'll have to rephrase that question, counsel, --
MR. BLEAKLEY: All right.
THE COURT: -- to comply with the order of the court.
MR. BLEAKLEY: I'll rephrase that.
BY MR. BLEAKLEY:
Q. Since --
Well let me ask you this, sir: Are you familiar with a product called Next?
A. Yes, I am.
Q. And what was Next? What is Next? What was Next?
A. Well Next was a cigarette that we produced and marketed essentially with no nicotine. We got it as low as you could possibly make it, with virtually no nicotine.
Q. And what did you do with this product after you developed it?
A. We developed it and we placed it in test market, if I remember. I was not involved in the U.S. tobacco company at that time, but I remember that it was put into test market and did -- did not succeed.
Q. Do you know how much of an investment Philip

Morris put into the development of Next?
A. Well my best recollection is approximately 300 million dollars.
Q. Did Philip Morris erect a plant in which to manufacture this cigarette?
A. Yes. We constructed a plant, which we shut down and mothballed.
Q. The plant is in mothballs today?
A. I believe it's in mothballs, yes.
Q. And can you tell us what Accord is?

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A. Yes.
MR. CIRESI: Objection, Your Honor, there's been no discovery on Accord after 1994, and I asked him about that issue at page --
THE COURT: Counsel, counsel, --
MR. CIRESI: I'm sorry.
THE COURT: -- just state your legal objection, please.
MR. CIRESI: Objection, Your Honor, it's outside the scope of discovery.
THE COURT: Okay. You'll have to rephrase the question, counsel.
BY MR. BLEAKLEY:
Q. After the Next product failed, did Philip Morris proceed to try to develop other new products?

A. Yes, we did.
Q. And what new products did it try to develop?
A. We tried to develop a product which is called Accord, which is currently in home consumer testing.
MR. CIRESI: Your Honor, again I'm going to object unless we have a time period, and --
(The Court motions counsel to come to the side-bar.)

(Side-bar discussion as follows:)

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(Side-bar discussion concluded.)

(Discussion between Mr. Bleakley and the witness.)

BY MR. BLEAKLEY:

Q. Can you describe very briefly --

THE COURT: Counsel, you have a problem there.

MR. BLEAKLEY: I turned one on but not the other. Sorry.

Q. Within the constraints that I gave you, Mr. Bible, can you tell us very briefly what Accord is.

A. Yes. It is a cigarette which is heated rather than lit, which, when smoked, will produce eight puffs, the same as a regular cigarette normally, and has a very significant reduction in many of the constituents in smoke that are considered to be harmful.

Q. And what is the status of the Accord project right now?

A. It is currently in home consumer test where we test it with a limited number of individuals to see if they -- how they react to it.

Q. It hasn't been placed on the open market for sale yet?

A. No, not yet.

Q. Do you remember yesterday when Mr. Ciresi asked

you whether or not you had ever instructed Philip Morris Research Center to develop a cancer-free cigarette? Do you remember that question?

A. Yes, I recall that question.

Q. And you said you hadn't.

A. That's right, sir.

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Q. Why haven't you?
A. Well first of all, I didn't run Philip Morris U.S.A., and I felt that they had a very vigorous and highly intellectual and capable group of people down there who, as far as I know, are permanently searching for ways to improve our product. I'd have thought if they could produce anything like that they would have produced it by now. And also, I would have thought that other than the other 100 or so companies around the world that produce cigarettes, they would have also done the same thing.
Q. Mr. Ciresi also asked you some questions about a substance called benzpyrene. Do you remember that?
A. Yes, I do.
Q. Has Philip Morris been able to reduce the amount of benzpyrene in cigarettes?
MR. CIRESI: Objection, Your Honor, no foundation.
THE COURT: You'll have to lay some

foundation.
Q. Do you know what, if anything, Philip Morris has done to reduce compounds considered to be risky in cigarettes?
A. Yes. We have --
Q. Let me lay the foundation according to the judge's instruction.
A. Okay.
Q. Okay. How do you know that?
A. Oh. I know that from being a smoker myself and understanding cigarettes, that over the last 40 years or so the tar and nicotine deliveries of cigarettes have come down by roughly 50 percent, and tar is the measure of particulate matter in cigarettes, and benzopyrene is a particulate matter.
Q. Mr. Ciresi also asked you some questions about whether other substances identified as carcinogens -- he asked you some questions about that. Do you remember that?
A. Yes, he did. Uh-huh.
Q. Has Philip Morris been able to reduce the quantities of other carcinogens in tobacco smoke?
A. That I don't know. I'd have thought that the reduction in tar would have had some impact.
MR. CIRESI: Your Honor -- excuse me, Mr.

Bible, I'm sorry. He said he doesn't know, so, Your Honor, I move to strike the answer.
THE COURT: After the words "I don't know," it will be stricken.
BY MR. BLEAKLEY:
Q. A few moments ago when you were describing the terms of the national resolution, you said that -- I don't want to characterize your testimony, but you said that you agreed that Philip Morris would refrain or stay out of the public debate. Do you remember that?

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A. Yes, I do.
Q. Has Philip Morris --
Does Philip Morris have a position today, in March of 1998, on the issue of causation?
A. Yes, it does.
Q. Does Philip Morris today have a position on addiction?
A. Yes, it does.
Q. What is Philip Morris's position today on addiction and what is it on causation?
A. Well I have it -- a copy of it here with me which I need to read, because I -- I can't remember it all, sir.
MR. CIRESI: Your Honor, this is just a

form to give a speech put together by someone else. I'm going to object to the form of the question.
THE COURT: Sustained.
Q. Without using the document, would you please tell the ladies and gentlemen of the jury, to the best of your recollection, what is Philip Morris's position today.
A. Yes. Well on causation, our position today is that we recognize that there is a substantial body of evidence that believes that cigarette smoking causes diseases such as lung cancer, and that we at Philip Morris recognize that, but we also have stated publicly that we also recognize that there is a very strong statistical relationship between cigarette smoking and the many harmful diseases, such as lung cancer, but that the link that I think I mentioned earlier in my testimony has not yet been established, but it is indeed a very strong statistical relationship between cigarette smoking and certain diseases. In recognition of that -- we do realize that there is a difference of opinion between us, but in recognition of that, we will disengage from the debate on whether the public health officials' message can be conveyed to the American public. We shall no longer contest that, except in the courtroom

or other forum where we feel that is necessary, of that nature.
Q. And has that position been stated publicly?
A. That's been stated publicly, and I stated it before the congressional committee where I testified, yes.
Q. And that's the position that Philip Morris takes today in this case; is that correct?
A. Yes, that's right, sir.
Q. And there's no difference between the position that Philip Morris is taking public -- here publicly or in the United States Congress?
A. No, certainly not.
MR. CIRESI: Excuse me, Mr. Bible. Objection, Your Honor, it's leading.
THE COURT: Yeah, you're starting to lead

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the witness, counsel.
MR. BLEAKLEY: I'm sorry.
THE COURT: Please rephrase.
MR. BLEAKLEY: Should I do it again even though he answered the question, Your Honor? I'll be glad to, or just move on.
THE COURT: Well do you want his answer stricken?
MR. BLEAKLEY: No.

THE COURT: Okay.
MR. BLEAKLEY: Okay.
THE COURT: Move on.
BY MR. BLEAKLEY:
Q. Is there a difference between Philip Morris's position on causation here today in this courtroom and the position that it's taking publicly to the public?
A. No, there is no difference in the position. We've said publicly that we will disengage from the debate, and the only time we'll reserve the right to debate the issue is where we need to defend ourselves in the courtroom or other similar forum.
Q. You adhere to the position you just stated here in this courtroom today?
A. Absolutely, sir.
Q. Now with respect to addiction, what is Philip Morris's position today with respect to addiction?
A. Well we have said that cigarette smoking is mildly pharmacological, that under certain definitions it is addictive. It's a word that has been used, in our opinion, somewhat loosely over many years. In 1964, I think, the Surgeon General defined smoking as habit forming. We accept that definition. In 1988, I think it is, the Surgeon General described

it as addictive. We do not subscribe to that definition. We believe that that definition lacks some -- some objective criteria such as the markers of intoxication or withdrawal symptoms.
Nevertheless, we have said that we shall disengage from the public debate on the matter of addiction, that we believe that the public health officials should be free to convey their message to the public of America freely and unobstructed, and we shall certainly in no way, other than the courtroom, defend our position -- well we'll defend our position, but we shall in no way whatsoever obstruct the conveyance of the public health officials' message.
Q. Now has that position been stated publicly?
A. Yes, it has been.
Q. Has it been released to the public?
A. I'm not so sure if it's been released to the public. It was -- I gave that in my testimony both before the Senate and the House.
Q. Is there any difference between the position

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that you've taken before the Senate and the House and the position you are taking here today?
A. No, sir, they're -- they're the same.
Q. Mr. Ciresi asked you some questions this morning

about Dr. Tom Osdene. Do you remember those?
A. Yes, I do.
Q. And you know Dr. Osdene?
A. I've met him on a number of -- a few occasions I would say.
Q. And you said this morning that you asked Dr. Osdene to testify; is that correct?
A. Yes, I did.
MR. BLEAKLEY: May I approach, Your Honor?
(Document handed to the witness.)
Q. I'm going to show you what have been marked as Exhibit CE001177 and 00 -- CE001178 and ask you if you can identify those documents.
A. Yes.
Q. First, could you identify 001177.
A. Yes. That is -- that is a letter from me to Mr. Nields, who I understand was the attorney for Dr. Osdene.
Q. And what is 001178?
A. That is a letter which I have wrotten -- I wrote to Dr. Osdene asking him to testify fully and truthfully at the deposition.
MR. BLEAKLEY: Your Honor, move the admission of 001177 and 001178.
MR. CIRESI: They're irrelevant and

self-serving statements, Your Honor.
THE COURT: Well it's not irrelevant, but they're certainly self-serving.
Sustained.
BY MR. BLEAKLEY:
Q. Why did you ask Dr. Osdene to come and testify in this case?
A. Because I thought it was very important that he testify truthfully and fully to all the facts that he's aware of at Philip Morris.
Q. Why did you think that was important?
A. I thought it would be -- it would not be nice at all if he took the Fifth Amendment, which I believed he was going to do, because it would appear that he had something to conceal, and I didn't want that impression to be made.
MR. CIRESI: Your Honor, I'm going to object to the last portion as non-responsive, move that it be stricken.
THE COURT: Yeah, the last portion of the answer will be stricken with regard to "something to conceal," and that will be stricken. The jury is instructed to disregard that.
BY MR. BLEAKLEY:
Q. This morning Mr. Ciresi showed you a document --

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Do you still have those exhibit binders there?
A. Yes, I do.
Q. -- showed you a document, Exhibit 10560.
A. Yes, I have that.
Q. Do you remember that document?
A. Yes, I do.
Q. And in that document Mr. Johnson -- Johnston, Mr. Myron Johnston --
You remember that document?
A. Yes, I do.
A. -- said that an increased -- in his opinion, that an increase in prices or excise taxes would decrease demand, do you remember that?
A. Yes, I remember that.
Q. Do you agree that an increase in cigarette prices can affect demand?
A. Yes, I do.
Q. Has Philip Morris made any projections of what the effect will be on demand for cigarettes if the price increases that are a part of the national resolution are adopted?
A. Yes, it has.
MR. CIRESI: Excuse me, sir. Objection, Your Honor, it's irrelevant and outside discovery unless they have produced that to us. We haven't

seen it.
THE COURT: Is there something --
Is there any document or anything, counsel?
MR. BLEAKLEY: No document. They have made estimates of what's going to happen to overall demand if prices go up, and it's consistent with the document that Mr. Ciresi put in this morning.
MR. CIRESI: Well, Your Honor, if they've done something post-'94, then we would be entitled to get it so we can cross-examine on it. That's our objection.
THE COURT: All right. Sustained.
BY MR. BLEAKLEY:
Q. Let me ask you this, Mr. Bible: Whether or not this national resolution becomes law, is it Philip Morris's intention to continue to try to make and market the best and safest cigarettes possible?
A. Yes, it is.
MR. BLEAKLEY: I have nothing further.
THE COURT: Should we take a short recess?
MR. CIRESI: Fine, Your Honor.
THE CLERK: Court stands in recess.
(Recess taken.)
THE CLERK: All rise. Court is again in session.

(Jury enters the courtroom.)
THE CLERK: Please be seated.

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THE COURT: Counsel.
MR. CIRESI: Thank you, Your Honor.
Good afternoon, ladies and gentlemen.
(Collective "Good afternoon.")

RECROSS-EXAMINATION

BY MR. CIRESI:

Q. Good afternoon, Mr. Bible.

A. Good afternoon, Mr. Ciresi.

Q. Now I want to go back and make sure we have the chronology of events regarding when you became CEO, what your position was at that time, when state suits started, and when the settlement came about. All right?

A. Yes.

Q. Now you became CEO, sir, in -- was it June of 1994?

A. Yes, that's right. Uh-huh.

Q. In June of 1994; correct?

A. That's right.

Q. Now the Mississippi case was started in April of 1994; wasn't it?

A. I don't recall exactly the date, but that sounds about right.

Q. And this lawsuit was started in August of 1994.

A. I don't remember the date exactly, but I remember it was one of the early ones, yes.

Q. Now do you know how many state lawsuits there were as of the end of 1996?

A. End of '96. I would --
No, I don't know.

Q. Does five ring a bell?

A. It doesn't ring a bell. If I had to guess, I would have said about seven, something of that nature.

Q. Very few; correct?

A. Very few out of 50 or 40. Quite a lot to me.

Q. Now the Mississippi suit, you said that was the first one. That's correct; correct?

A. Yes.

Q. Do you know what the nature of the complaint was in the Mississippi suit?

A. No, I've forgotten. I know it was a Medicaid case.

Q. It was only on equitable grounds; correct?

A. I don't recall that, sir. I'm not a lawyer.

Q. Do you know that Minnesota was the first lawsuit brought by a state that alleged antitrust violations, consumer fraud violations, equitable grounds and

common tort claims? Do you know that?

A. No, I don't, sir.

Q. Nobody's ever told you that?

A. Oh, they may have, but I don't recall those terms because they're legal terms that I'm not that familiar with.

Q. Now we do know that on February 24th, 1995, you

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made public statements about what your corporation was going to do; correct?
A. Yes, that's right.
Q. And you were going to fight, fight, fight; weren't you?
A. That's what I said, yes. I should fight for my company.
Q. You're not going to be anybody's punching bag; correct?
A. That's right.
Q. When you're right you fight, and you win; correct?
A. Correct.
Q. And you put those sentiments into your shareholders' letter; correct?
A. Correct.
Q. Can you go to Exhibit 17624, your annual report.
A. Yes, I have that.

Q. Now this was about six months after the filing of the Minnesota suit; correct?
A. Yes, that's right.
Q. And if we could go to the defending our company --
THE COURT: Counsel, I kind of miss the opportunity of watching you.
MR. CIRESI: Oh, I'm sorry, Your Honor.
THE COURT: I wonder -- I wonder if we could --
(Laughter.)
THE COURT: I wonder if we could move that back a little bit so --
MR. CIRESI: That would be fine, Your Honor. I apologize.
THE COURT: -- I can view you in action.
(Easel moved by Mr. Ciresi.)
THE COURT: Thank you.
MR. CIRESI: My apologies, Your Honor.
BY MR. CIRESI:
Q. May we first go to "Growing our Business." "Growing our Business."
A. Yes, I have that.
Q. All right. Now first of all, you, as we've gone over before, at this time, February 24th, 1995, you

said your one all-consuming ambition was to create wealth for the owners of Philip Morris; correct?
A. Yes, that's right.
Q. That's February 24th, 1995. Wealth.
How many shares of stock did you own in Philip Morris on that day?
A. Well I don't remember, but I would have thought some 30 or 40 thousand shares, something of that nature.
Q. Thirty or 40 thousand shares.
What was the share price?
A. February 24, 1995? I don't remember, sir.

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Q. Do you remember, if we jump ahead a little bit to the day this settlement was announced in June of 1997, how many shares you owned?
A. June 1997?
Q. Yes.
A. Yes. I think I would have owned about 78 thousand shares. Close to that.
Q. Seventy-eight thousand shares.
A. I think so, yes.
Q. And how many options did you have at that time?
A. At that time? I would have had about --
What was the date again?
Q. Day of the settlement, June 20th, 1997.

Proposed settlement.
A. Well I would have owned, I think, about 2.8 million.
Q. 2.8 million.
A. I think.
Q. When the settlement was announced, this settlement, what happened to the stock of Philip Morris?
A. I think it went up, then it went down.
Q. It went up over three points; didn't it?
A. I don't remember that. I -- it went up, but I don't remember how much.
Q. Yes. And three points with over two million shares, that would be about six million dollars; correct?
A. That's the right mathematics.
Q. Yes. And how much did the market value capitalization rate of that corporation go up on that day that this settlement was announced?
A. Well if it was three dollars, and I'm not sure that it was, if it was three dollars, the company has 2.4 billion shares outstanding, so that would be 7.2 billion dollars.
Q. So in one day, with the announcement of this so-called proposed settlement, the stock -- or the

worth of the company went up 7.2 billion; is that right?
A. That's right, if three dollars was the right number, sir.
Q. Well if it's two dollars --
A. Sure. Well that's -- that's a 33 percent reduction.
Q. Still not a bad increase; is it, sir?
A. Yes, it's a good increase. It subsequently came down, though, I'd have to remind you.
Q. Went up on the announcement of this settlement; didn't it?
A. I think it went down the next day.
Q. Sir, it went up on the announcement of this settlement.
A. That's right.
Q. Thank you.

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And your goal, as stated in your February 24th, 1995 annual statement, was to our one all-consuming ambition is to create wealth for the owners of Philip Morris; correct?
A. That's what I said there, yes. That's right.
Q. And then you had another section which talked about maximizing shareholder value; correct?
A. Yes, that's right.

Q. And then you had another section which dealt with defending our company; correct?
A. That's right.
Q. And that's the one where you said we're going to go on the offensive to vindicate our rights; correct?
A. Well let me see that.
Q. Right at the bottom, sir. You'll recall we went over that yesterday.
A. You're quite right, yes.
Q. Now things changed between June of 1994 when you took over and when you decided to try to negotiate a settlement with certain attorneys general; didn't you? Didn't it?
A. June '94?
Q. June of 1994 when you took over as CEO and the day that you decided to enter into a settlement with certain attorneys general, things changed; didn't they?
A. Which things, sir?
Q. Course of litigation changed for one; didn't it, sir?
A. Yes, I said that.
Q. Okay. The documents, 30 million here in Minnesota, started coming out; didn't they, sir?
A. I believe they came out in -- I'm not sure, but

I think in 1996 or '97. I said that, I think, yesterday to you.
Q. And you fought those documents in this state up to the Minnesota Supreme Court and indeed up to the United States Supreme Court; didn't you?
MR. BLEAKLEY: Objection, Your Honor, that's irrelevant and prejudicial.
THE COURT: No, you may answer that.
Q. Didn't you, sir?
A. Well if you're telling me we did, I'll believe you, sir.
Q. You don't know?
A. I'm not that familiar.
Q. Do you know that you went to the Minnesota Supreme Court -- let me strike that.
Do you know you went to the Minnesota Court of Appeals and lost, you went to the Minnesota Supreme Court and lost, and you went to the United States Supreme Court and lost? Nobody told you that?
A. Sir, there have been so many cases that frankly I can't keep track of them all, and if you're telling me that that's what happened, I shall assume that's

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what happened.
Q. Tell me one other attorney general other than Attorney General Skip Humphrey that took you to the

United States Supreme Court on these cases.
MR. BLEAKLEY: Objection, Your Honor.
Q. On these cases.
MR. BLEAKLEY: Same objection.
THE COURT: Well you may answer if you know.
A. I don't know of any, sir. I -- I just don't know if there were or not.
Q. Tell me one other state that you have set up a depository pursuant to the request of the lawyers representing that state as you have in Minnesota. One other state.
A. I don't -- I don't know of any.
Q. There's none; is there, sir?
A. I don't know, sir.
Q. Well you would know if you put 700 people to work for nine months setting up a depository in another state; wouldn't you?
A. Well I -- I would know I'd have thought, but I just don't know. I'd have thought somebody would have told me that, but I don't know. But I'll assume if you're telling me that's the case, that is the case.
Q. And you took this action right here to the state of Minnesota trying to get the case thrown out;

didn't you?
MR. BLEAKLEY: Same objection, Your Honor.
A. Took which action, sir? Sorry.
Q. This case. You took this case to the Minnesota Supreme Court to try to get it dismissed; didn't you?
A. Well I'd expect that's what we would have done, yes.
Q. And you lost; correct?
A. I guess we did if we're here today.
Q. You guess we did if you're here today; is that what you just said?
A. That's what I said.
MR. BLEAKLEY: Same objection, Your Honor.
THE COURT: You may answer if you know.
Q. And that took place between your fighting statements of February of 1995 and the proposed settlement with some attorneys general in 1997; correct, sir?
A. What took place, sir?
Q. You lost in the Minnesota Supreme Court trying to get the case thrown out.
A. Well I don't know the date, but if you're telling me that's right, I'll -- I shall assume you're right.
Q. Now when you were giving your rendition of

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issues that you said led you to conclude you should enter into a negotiation, you didn't mention the health of the smokers. Do you remember that?
A. I don't recall if I did, sir, no. Oh, excuse me.
Q. May I approach, Your Honor?
You don't remember if you did.
A. I think I said that I was concerned by the consensus of the health authorities, and that's why they were at the negotiating table with us.
Q. The health authorities weren't at the negotiating table with you. That's just flat-out false; isn't it, sir?
A. My understanding was that we had representatives of the health organizations at the negotiating table, sir.
Q. One person representing one organization; isn't that correct?
A. Well I know he was there, but I thought he was also representing others.
Q. You did.
A. Yes, I did.
Q. The settlement has been roundly criticized by leading organizations in this country which deal with the public health; correct?

A. Yes, I'm aware of that.
Q. The American Medical Association; correct?
A. Yes, I believe they have.
Q. The American Lung Association; correct?
A. Yes, I know they have.
Q. The American Heart Association; correct?
A. I don't know about that.
Q. The American Cancer Society; correct?
A. I believe so.
Q. And numerous senators and congressmen and even the White House have criticized this settlement, proposed settlement --
MR. BLEAKLEY: Object.
Q. -- with certain attorneys general; correct?
MR. BLEAKLEY: Objection, Your Honor, this is getting very argumentative and it's also not relevant.
THE COURT: No, you opened the door, counsel.
Q. Isn't that right, sir?
A. I'm not familiar that the White House has criticized it, sir. I thought the president actually had a press meeting and thought that there were some very good elements in it and set out some principles that he'd like to see included.

Q. Yeah. And he set out some principles that weren't very good, like immunity; correct?
MR. BLEAKLEY: Objection, Your Honor, this

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is getting argumentative again. And I was barred from asking any questions about the White House.

THE COURT: Okay. Sustained.

BY MR. CIRESI:

Q. Now when you said you were concerned about certain things, here's what you said, sir:

"Why was I concerned? Well, I felt that many of these things could harm our company and our investors significantly, not to mention our employees and our suppliers. I think there are maybe two million jobs in the U.S. dependent upon the tobacco industry, and I think that has a very important economic impact."

Do you remember that answer?

A. Yes, I do.

Q. Not a word about the victims of your company's conduct; correct?

A. I think that I went on to talk about youth smoking also, that I was concerned about youth smoking. I think I also went on to say that I was very concerned about the public perception of the tobacco industry, and that bothered me. I thought that was a very big societal problem.

Q. Yes.

A. I believe I said that.

Q. The public perception. What about the people who are dying from your product? What about those people? You didn't mention them; did you?

A. Well, sir, if there are people who are ill and they are smokers and they are adult smokers, I believe they've taken the free choice to smoke cigarettes. There are 50 million adult smokers in America today.

Q. You said earlier in your testimony that if people were addicted, their choice was limited.

A. You asked me that. I did say that, yes.

Q. You did say that.

A. If they were addicted.

Q. Yes.

Yesterday as I walked out of the courtroom, Mr. Bible --

Did you see the children in the courtroom yesterday?

A. No, I didn't.

Q. Yesterday I walked out and somebody asked me to ask you a question. I'm going to ask you the question. The question is this: Having in mind that you acknowledged under oath that nicotine is a poison

and having in mind that you acknowledged under oath that nicotine is addictive, why do you sell a poisonous and addictive product? Can you answer that?

A. I don't believe that a cigarette is poisonous, sir.

Q. That's your answer?

A. That is my answer, yes.

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Q. Now let's go back to what took place between 1995 and 1997. In 1995, if there were no lawsuits brought by the attorneys general, all the documents that have come out wouldn't have come out; isn't that correct?
A. I don't know.
Q. Well you do know that they came out in this lawsuit in this state because the Attorney General of this state brought his action. You do know that.
A. I do know they're out here, yes, sir.
Q. Yes. And those had never been out before, as you said earlier in your testimony.
A. That's right, sir.
Q. And you could have --
A. In fact I should -- may I --
I believe some of them had in fact been in the public arena before.

Q. Some.
A. Yes.
Q. Very few; correct?
A. I don't know.
Q. And they came out in another lawsuit; isn't that right?
A. I believe so, yes.
Q. Okay. Now if there weren't the lawsuits, then, all this information that Congress has demanded be made public wouldn't even be known; would it?
A. Which information is that, sir?
Q. The information in your company documents which show what you and all these other defendants have known for the last 40 years, sir.
MR. CORRIGAN: Object to the form of the question with respect to B.A.T Industries, Your Honor.
MR. CIRESI: I'll amend it.
No, I will not amend it, Your Honor. It includes B.A.T Industries. They may not be a manufacturing defendant, but they're a defendant and their documents have been produced.
MR. CORRIGAN: Your Honor, the company wasn't even in existence at the time period he's talking about.

THE COURT: Okay. You may answer the question.
THE WITNESS: Could you repeat the question, Mr. Ciresi?
MR. CIRESI: May I have it back.
(Record read by the court reporter.)
A. Well I don't know. They may have been or they may not have been, but they've certainly been made public now.
Q. They certainly have.
When you became CEO in June of 1994, did you say, "Open up the vaults, get the documents out?" Did you say that?

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A. No, I did not.
Q. Did you say, "Let's tell everybody what we've known for the last 40 years?" Did you say that?
A. No, I did not. I've told you what I --
Q. Did you?
A. No, I did not. I told you what I have done.
Q. Did you do it in 1995?
A. What, sir?
Q. Say, "Let's open up the vaults and let the fresh air in and let people see what we knew for the last 40 years." Did you do that?
A. No, I did not.

Q. Did you do it in 1996?
A. No.
Q. Did you do it in 1997?
A. No. I did it in 1998.
Q. You've only done it in 1998 when you went to Congress asking for some things; correct?
A. I did it in 1998.
Q. Yes, when you went to Congress asking for certain things; correct?
A. I told Congress I would release the documents.
Q. And you wanted certain things from Congress; didn't you?
A. Well I wasn't asking Congress anything. I was -- I think that I urged them to enact the proposed resolution into legislation.
Q. And you were asking for certain things for your company to protect its wealth; weren't you?
A. Yes, I'm asking for civil liability limitations in the proposed resolution.
Q. And this Action Against Access, did you suggest that be done in 1994?
A. That was done in 1995. It took us a bit of time to figure out what it was we could do, and we figured it out and we did it, I think, in May 1995.
Q. After the lawsuits; correct?

A. Well that's right, yes. But I don't think there was any connection between the two.
Q. You never did it in the 40 years before that. Your company, sir.
A. Yes, sir. I was appointed in -- as the CEO in June '94, and we did it in May '95.
Q. Yes. Your company never did it before this lawsuit was brought; correct?
A. I'm not contesting that. I'm telling you what I did when I became CEO.
Q. Now the ceasing of the sampling of cigarettes, that was in 1995; is that right?
A. That was part of Action Against Access, yes.
Q. Never did that before this lawsuit; did you?
A. No, sir, I did it as soon as I could sensibly do something when I was in my new position.
Q. The ceasing of the mailing of cigarettes, you never did that before this lawsuit was filed; did

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you?
A. No, but I did it in 1995.
Q. After the lawsuit; correct, sir?
A. I didn't see any connection between the two, frankly.
Q. You didn't.
A. No, I didn't.

Q. Now can you turn, sir, to --
By the way, you said you entered into a settlement with some attorneys general; correct?
A. Yes.
Q. Not all the attorneys general of this country support that; do they?
A. Excuse me?
Q. Not all the attorneys general of this country support that; do they?
A. No, I believe that 36 support it.
Q. Do you know what Wisconsin thinks about the settlement?
A. No, I don't.
Q. Do you know what Michigan thinks about the settlement?
A. Michigan? No, I don't.
Q. Do you know what Missouri thinks about the settlement?
A. No, I don't.
Q. Do you know what Utah thinks about the settlement?
A. No, I don't.
Q. Do you know what Maryland thinks about the settlement?
A. Maryland? No, I don't.

Q. Do you know what Iowa thinks about the settlement?
A. No, I don't.
Q. Now you negotiated, you said, with Mr. Moore, the Attorney General of Mississippi, and some lawyers who had class actions; is that right?
A. That's right. That's my memory of the group, yes.
Q. Did they represent any clients whatsoever?
A. I believe so. I believe they filed class actions, yes.
Q. Tell me where a class action was certified. Name me one.
A. I believe a class action was certified in Philadelphia.
Q. In Philadelphia?
A. I believe so, yes. I could have that wrong.
Q. For personal injury people?
A. I'm not sure.
Q. Ah.
A. Could be wrong.
Q. Can you think of any other place where a class action was certified?

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A. Where it was certified? There are a couple of others that have been certified. They don't come to

my mind just now. There was a class action certified in Florida, the Broin case. I think the Engel case in Florida was also certified.
Q. The Broin case, that wasn't part of this settlement, sir.
A. No, that -- that case continued and was settled.
Q. Yeah. That was a separate case. That lawyer didn't want anything to do with your settlement; did he?
MR. BLEAKLEY: Objection, Your Honor, it's getting argumentative. He's testifying. He's giving opinions of other people, and he doesn't have any more basis for it than I do.
THE COURT: Well I think it's a legitimate inquiry. The witness made a statement. He can inquire about it.
Q. Was the Broin class settlement part of this proposed national resolution?
A. No, it was not.
Q. And the lawyer for that class action opposed this; didn't he?
A. I don't know.
Q. And he did have a class certified; isn't that right?
A. Yes, I just said that to you.

Q. Now can you direct your attention, sir, to Exhibit 17624, which is the settlement -- proposed settlement, excuse me. I'm sorry, it's Exhibit 24291. 24291.
A. Yes, I have it.
Q. Now can you go to --
A. It's in fact a Form 8-K for R. J. Reynolds.
Q. Well it has the settlement; isn't that right?
A. Yes. I think it does, yes.
Q. Counsel pointed that out to you, Mr. Bleakley; correct?
A. Yes. That was a different document he gave me.
Q. This is it, 24291.
A. Well I didn't know it was the same number. Excuse me.
Q. Now could you go to the page, it's about five or six in.
A. Does it have --
Q. It's got some signatures on it. "CASTANO PLAINTIFFS LITIGATION COMMITTEE." Do you see that?
A. Yes.
Q. Do you know what that is?
A. I beg your pardon?
Q. Do you know who those are?
A. These people?

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Q. Yes.
A. I would have met two of them, I think, sir.
Q. All right. Now Mr. Coale, he didn't have any class action certified; did he?
A. I don't know.
Q. Mr. Chesley, he didn't have any class action certified; did he?
A. I don't know. I think they're involved in the Castano class action that was decertified by -- that was in the federal court. But I remember they were filing class actions -- they probably had to file the state class actions.
Q. Ah.
A. Maybe. I'm not sure of that.
Q. The Castano class action which was filed where, in New Orleans?
A. Yes, I think it was.
Q. And that was decertified by the Fifth Circuit Court of Appeals; correct?
A. Well I'm not sure who decertified it, but it was decertified.
Q. Right. And it said that those folks couldn't represent all these people; didn't it?
A. It was decertified, but I think that they then refiled the case in many states.

Q. And none of those state actions, to your knowledge, were ever certified; were they, sir?
A. Have yet been certified.
Q. Right. Isn't that right?
A. Have yet been, to the best of my knowledge. I'm not certain about that.
Q. So these individual plaintiffs' lawyers that your people were negotiating with didn't represent any class that had been certified; isn't that right?
A. None that had been certified. They'd certainly filed cases.
Q. Now nobody authorized Mr. Moore to negotiate on behalf of the state of Minnesota, to your knowledge; did they?
A. Not to my knowledge. I don't think he represented that he did.
Q. So you're not representing that Mr. Moore negotiated on behalf of every state in this union; are you?
A. No, I'm not. I don't think I have either.
Q. Now you said that the negotiations took place in Washington?
A. Sir, I attended the original negotiation meeting. It was the first time we'd met with the parties we negotiated with, and that was in

Washington. I then did not participate any further in the negotiations with the other parties, but negotiating teams were put in place and they met frequently in many places, I think.

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Q. So you didn't really negotiate any agreement yourself; did you, sir?
A. No, personally I did not.
Q. You just met with a few lawyers and said we're interested in doing a deal; correct?
A. I think that's oversimplifying it, Mr. Ciresi.
Q. How long did the meeting take?
A. Which meeting?
Q. The meeting with these lawyers.
A. Which meeting?
Q. The meeting with the lawyers that you met with in Washington.
A. Oh, I met with state AGs in Washington, I met with lawyers, and I met with the representative of the health organization.
Q. There was one meeting; correct?
A. One meeting?
Q. How long were you there?
A. I was there for probably about half an hour. It was the initial meeting that took place to make contact.

Q. Okay. One-half hour.
A. That I was present, yes.
Q. And that's the only time you were present ever in any of the negotiations; isn't that right, sir?
A. That's right. Yes, we had great, full teams of negotiators, and they did too.
Q. Well --
You said you had great teams; is that right?
A. Yes.
Q. Did a great job for you; correct?
A. No. I mean sizable teams, sir.
Q. Sizable.
Let's take a look, sir, at the civil liability section and see what -- what it is --
A. Uh-huh.
Q. -- this proposed settlement provides for. We've written on the bottom page numbers so we could get to it a little quicker.
A. Uh-huh.
Q. Could you turn to page 28.
A. Yes, I have it.
Q. Now the first thing you said is that there were two buckets, I think you said. Is that what you said?
A. Yes, I used those words.

Q. And you were submitting to the FDA; is that what you said?
A. Yes, I said that we would be regulated by the FDA under the proposed resolution.
Q. The FDA had already asserted jurisdiction over you; hadn't it?
A. That was being appealed in the courts, I think, sir.
Q. Well I know you were fighting it, but they had

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already asserted jurisdiction over you; correct?
A. Yes. And we -- we concluded that was illegal and we fought that in the courts.
Q. Well, but they had asserted jurisdiction over you.
A. They had.
Q. Right?
A. That's right.
Q. There's been a preliminary decision in that case; correct?
A. There has, and it's on appeal.
Q. Yes. And you lost; correct?
A. They lost one, we lost one.
Q. You lost contesting the assertion of jurisdiction to regulate the product; correct?
A. That's right. And they lost the right to

restrict our advertising.
Q. Now, if we look at the civil liabilities, sir, you wanted certain types of immunity; correct?
A. Not immunity I don't think, sir.
Q. Well let's see if that's what it is. First of all "General," do you see that?
A. Yes.
Q. "Present Attorney General actions (or similar actions brought by or on behalf of any governmental entity), parens patriae" --
That means as the parent of the citizens; correct?
A. I don't know.
Q. -- "and class actions are legislatively settled;" correct?
A. Yes.
Q. So you wanted this proposed settlement to settle everything that was out there; correct?
A. That's right.
Q. And in fact when you first met with these attorneys general and people who purported to represent individuals, you also said you wanted criminal immunity; didn't you?
A. I don't recall that.
Q. Do you deny that?

A. I don't deny that, but I don't recall it. I didn't ask for that.
Q. Well your lawyers did; didn't they, sir?
A. I don't know, sir.
Q. Didn't you instruct them to?
A. I did not.
Q. You also state here, "All 'addiction'/dependence claims are settled...." Is that right?
A. That's what it says, yes.
Q. So that if this purported settlement were ever enacted in the terms of this agreement, any person in this country who felt they were addicted as a result of your products, their claim was settled; isn't that right?

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A. Their claim was settled, I think, as it says here, under a class action basis. They could take their claim forward as -- as an individual.
Q. Their claim was settled without ever having an ability to bring their claim with their own lawyer; isn't that right?
A. Ah --
Q. That's what you wanted to do.
A. Under a class action?
Q. Yes.
A. Uh-huh, that's right.

Q. Isn't that right?
A. That's right. But they could then bring their lawsuit as an individual.
Q. They can't. Their claim is settled, sir. All addiction/dependence claims are settled. Do you see that?
A. Yes, I do see that.
Q. That's what was being proposed; correct?
A. And all other personal injury claims are reserved.
Q. Right. But they couldn't allege that they were addicted in those cases; could they?
A. That's what that says, yes.
Q. Yes. So in other words, your companies wanted to be relieved of any liability for addiction or dependence claims.
A. Under the proposed resolution, if I remember correctly, I think a billion dollars was being set aside for smoking cessation programs --
Q. Ah.
A. -- per year.
Q. We'll talk about that, sir. But you wanted to be relieved of all addiction/dependence claims; correct?
A. We were settling them.

Q. Next, "Third-party payor (and similar) actions pending as of 6/9/97 are not settled, but governed by provisions regarding past conduct as set forth in Section B below;" correct?
A. That's what it says, sir, yes.
Q. Now that would mean that any union, pension fund, mutual fund, anybody who wanted to bring a claim after June 6, 1997, and who didn't know you were negotiating with a few folks, couldn't bring a claim after that date; isn't that right?
A. Well they would be governed by the provisions in Section B below, which I need to read, sir.
Q. Well no, no. Read that again. "Third-party payor (and similar) actions pending as of 6/9/97 are not settled...." I'm asking about the ones that weren't pending as of June 9th, 1997.
A. Oh, I see.
Q. All those unions, pension funds, health plans, they were all out the window, too; weren't they?

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A. They'd been settled by the payment under the proposed resolution, that's right.
Q. Who represented them?
A. The state -- state attorneys general.
Q. What state attorney general ever told you they were representing third-party payors?

A. I don't --
Q. Name me one.
A. I don't know, sir.
Q. Nobody represented them at this table; did they?
A. Not to my knowledge.
Q. No.
A. I thought the state attorneys general had authority.
Q. But you wanted to throw their claims out; didn't you?
A. We were settling those, I thought, sir.
Q. Now we move down, "Provisions as to Civil Liability for Past Conduct." Correct?
A. Yes.
Q. This is the conduct over 40 years that we've been talking about in this lawsuit; correct?
A. Yes. That would include that.
Q. Now number one, "All punitive damage claims are resolved as part of the overall settlement. No punitive damage -- damages in individual tort actions." Is that right?
A. Yes, that's right.
Q. So everything was wiped out for the last 40 years; correct, sir?
A. Yes, sir, by the sum payment of the settlement.

Q. And the sums that would be paid under the settlement would be paid on the backs of the smokers; correct?
A. Yes. That was insisted upon by the other side. The health organization, the state attorneys general insisted upon that, said that the price of the cigarettes would go up and the volume would go down.
Q. You'd pass on all 368 billion dollars to the people you've addicted.
A. We were required to pass it on, sir, yes.
Q. Well that's what the language says, but that's what you wanted; isn't that right, sir?
A. Sir, this agreement says that it will be passed on.
Q. Yes.
A. And we would pass it on.
Q. And you negotiated that agreement, and by "you" I mean your lawyers; isn't that right?
A. My company helped negotiate the agreement.
Q. Yes.
A. Uh-huh.
Q. No class joinder. Do you see the next one, sir? "Individual trials only, no class actions, joinder, aggregations, consolidations, extrapolations or other

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devices to resolve cases other than on the basis of individual trials, without defendant's consent." Is that right?
A. That's what it says, yes.
Q. So if one person who now couldn't bring an addiction claim wanted to bring a claim against your 68-billion-dollar corporation, they would have to go it alone; correct?
A. They would bring an individual claim, that's right.
Q. Yes. And of course they could muster all the resources that they could individually against your company; isn't that right?
A. Well many people have sued the tobacco industry individually, and there's no lack of lawyers who wish to represent them, either, to the best of my knowledge.
Q. And you know, sir, that what your company and others have said about them; don't you?
A. Tell me, please.
Q. I will. RJR paraphrased Patton and said, "The way we won all these lawsuits was to make the other poor son-of-a-bitch spend all of his money and not by RJR spending its." Are you aware of that?
A. No, I'm not aware of that.

MR. BLEAKLEY: Objection, Your Honor, this is getting extremely argumentative.
THE COURT: He asked counsel for the quote and he received it.
Q. You do know, though, sir, that you said on February 24th, 1995, that we've never settled a lawsuit. You do know that; don't you?
A. Yes, I did say that.
Q. Now if you go down to number four, it provides as follows: "Provided that the five negotiating companies enter into the Protocol: Protocol manufacturers to enter into joint sharing agreement for civil liability. Protocol manufacturers not jointly and severally liable for liability of non-Protocol manufacturers." Do you know what that means?
A. It would seem to me that manufacturers of cigarettes who had not signed this agreement would be non-protocol manufacturers.
Q. And so that if all of you conspired over 40 years and someone didn't sign this agreement, the rest of you who signed it wouldn't be responsible for the other one who didn't sign it; correct?
MR. BLEAKLEY: Objection, Your Honor, argumentative, 403.
THE COURT: Yeah. Rephrase that, counsel.

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Q. Sir, if one found that all of you had conspired together over 40 years and one or more of you did not sign the agreement, the person who brought the suit could only recover against those who signed the protocol agreement; correct?
A. I can't follow that, sir. I'm sorry.
Q. Just can't answer that; is that right?
A. No, I just don't quite understand it.
Q. This was another immunity provision for you; wasn't it?
A. I don't know that I'd describe it that way. We were paying a lot of money to settle a lawsuit -- lawsuits.
Q. Your customers are paying the money to settle the lawsuit; aren't they?
A. Sir, our volumes will decline significantly, and that is why the other parties insisted that the price should be passed on in the package of cigarettes.
Q. And if the volume goes down, the price that you're going to pay goes down; doesn't it? Right off the base year.
A. The price of what?
Q. The price of the settlement. That was also negotiated; wasn't it?
A. I don't get you. If the price goes down, our

profits go down, sir.
Q. Sir, if your volume of cigarettes go down, then the amount you pay under this settlement goes down.
A. Oh, yes. It's volume-related, yes.
Q. It's volume-related.
A. That's quite right, yes.
Q. So if the price goes up, the volume goes down, it's not going to be 368 billion dollars; is it?
A. It depends how much the volume goes down. But that's what the other party insisted upon, sir.
Q. You mean the attorney generals that you negotiated with said, "Ah, Mr. Bible -- Mr. Bible's lawyers, we want to let you get off the hook, so we'll let you pay less money if the volume goes down for all your past conduct."
A. They recognized and they felt it was very important that the price of the cigarettes go up, particularly since that would put them more out of reach of youngsters being able to buy them. They also recognized that that would mean the volume would go down.
Q. Well, they could have insisted, if they were hard bargainers, that even if the price goes down -- or excuse me, the volume goes down, you should pay for your past conduct; couldn't they?

A. Well then there would be no tobacco companies left. They would be bankrupt.
Q. Well you'd be bankrupt.
What happens in bankruptcy, Mr. Bible?
A. Well I'm not familiar with it, sir.

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Q. You're not?
A. And if the business goes out -- goes out of business, and in this particular case I'd anticipate smokers would not stop smoking, I would anticipate, if there are no cigarettes available here, you'd have contraband coming into the country.
Q. Well let's talk a little bit what happens in bankruptcy, since you've speculated about it.
A. Uh-huh.
Q. Now when you started these companies, they were just tobacco companies; correct?
A. I didn't start them, sir.
Q. Well when the companies were started, they were tobacco companies; correct?
A. When our company started, it was a tobacco company.
Q. And then it bought other businesses from other businesses; correct?
A. Yes, we bought and sold many businesses.
Q. Right. And you still are doing that today;

aren't you?
A. Not today. We bought some -- I think the last big company we bought was about five or 10 years ago.
Q. All right. So you could sell what you have today; couldn't you?
A. Yes, we could.
Q. You could sell the food group; couldn't you?
A. Yes, we could. We don't want to.
Q. I know you don't want to. But you could sell the food group; couldn't you?
A. Yes, we could.
Q. You could sell the Miller Beer group; couldn't you?
A. Yes, we could.
Q. You could take all that money that you get and you could use it to settle the cases; couldn't you?
A. That money would be available for whatever use it would be needed for, sir.
Q. Yeah. And one of the things it could be available for was to pay appropriate amounts to those who are found to have been damaged by your conduct; correct?
A. Well as I understand, the defendant in this case is Philip Morris U.S. tobacco company. It doesn't own any food company, sir.

Q. Well that's another thing that you negotiated here, or your people negotiated. Only the manufacturing companies would be responsible, not the parents; correct?
A. Yes. They make the cigarettes.
Q. So that the parent company which owns other companies bought on the strength of the tobacco business wouldn't have to worry about those companies being exposed to damages if this settlement went through; correct?

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A. I explained to you yesterday, I think, that the tobacco companies didn't buy the food companies. They were bought by funds borrowed which the holding company borrowed.
Q. Yeah. On the strength, sir, of the tobacco business. That's where the business started; correct?
A. The business started there. The monies were borrowed from banks to buy the food companies, and I believe the banks looked at the assets we were buying, sir.
Q. And they also look at the strength of the person who is buying it; don't they?
A. I have no doubt that they do.
Q. None at all; do you, sir?

You've been in finance a long time; isn't that right?
A. I have, yes.
Q. And they look, banks look --
A. I'm not a banker, but I know banks look at the assets of the company, sir.
Q. Thank you.
And the assets of the company were tobacco assets when you started buying companies; correct?
A. Yes, that's right.
Q. And that provision that you can't sue the parent is right over on page 29; isn't it?
A. I don't know. Can you point me to it?
Q. Sure. If you go over to page 29, the next page.
A. Well I'm on page 29 now, I think.
Q. And you see "Defendants-- a.?"
A. Yes, I do.
Q. "Actions may be maintained only against manufacturing companies, their successors and assigns...;" isn't that right?
A. Yes, that's what it says.
Q. Now the 368 billion dollars is going to be paid by the smokers. You also get a tax deduction for it; don't you?
A. We collect the money and pay it over to the

government, yes.
Q. So you're going to get a tax deduction; correct?
A. No, we -- we collect a dollar, we pay over a dollar.
Q. Do you know if punitive damages are deductible?
A. I understand punitive damages are deductible.
Q. You think they are?
A. I believe they are.
Q. Okay. Now when you were negotiating this, your lobbyists also snuck through Congress a 50-billion-dollar tax credit; didn't they?
MR. BLEAKLEY: Objection. Objection to the characterization.
MR. CIRESI: Well I will -- I will restate it, sir.

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THE COURT: Restate it, counsel.
BY MR. CIRESI:
Q. During the time this was negotiated, your lobbyists arranged for a 50-billion-dollar tax credit for your companies; didn't they?
A. My lobbyists?
Q. The tobacco industry's lobbyists.
A. Certainly not Philip Morris.
Q. You weren't going to benefit by that?
A. I beg your pardon?

Q. You weren't going to benefit by that 50-billion-dollar --
A. We would have, but I can tell you Philip Morris had nothing to do that, to the best of my knowledge, sir.
Q. To the best of your knowledge.
A. Yes.
Q. Who did it, sir?
A. I don't know.
Q. Was it R. J. Reynolds?
A. I don't know.
Q. Was it Brown & Williamson?
A. I don't know.
Q. Was it --
A. But I -- I was asked in Congress that question and I testified that we did not do it.
Q. Was it American Tobacco?
A. I have no idea, sir.
Q. Was it Lorillard? Was it Lorillard?
A. I don't know.
Q. Well haven't you gone around to the other CEOs and said, "Who did this?"
A. No, I have not.
Q. Did it come out of the air?
A. No, I didn't -- I --

I don't know where it came from, but I -- I understand it was rescinded very shortly thereafter.
Q. When it was found out it was rescinded; correct?
A. But I understood that the legislation had been signed by all the relevant parties.
Q. Pardon me?
A. I understood that the legislation had been signed or the bill had been signed by the relevant parties.
Q. By the relevant parties?
A. Yes.
Q. What do you mean by that?
A. Well the Congress and the White House.
Q. And it was found out that there was this provision that was going to grant your industry a 50-billion-dollar credit; isn't that right?
A. Well it was in there.
Q. Yes. It's out now; isn't it?
A. Sir, I had nothing to do with that.
Q. Sir, it's out now; isn't it?

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A. Yes, it was taken out. It was in and it was taken out. But it was certainly not to my knowledge.
Q. When it was found out --
When it was found out and disclosed, action was taken; correct?

A. Yes, that's right.
Q. Action was taken by Congress; correct?
A. Yes.
Q. Now we have seen here in this case documents coming out; correct?
A. Yes.
Q. I'm over here, sir. Is there somebody you were looking at?
A. No, sir.
Q. Okay. Now there's documents coming out in this case; correct?
A. Yes.
Q. And actions being taken in this case with regard to those documents; correct?
A. Which actions, sir?
Q. We're looking at and seeing what your company knew over 40 years; correct?
A. Well I believe you are, yes.
Q. And you've seen many of them for the first time as you testified to; isn't that right?
A. Yes, that's right.
Q. Where in this settlement agreement does it talk about nicotine?
A. I don't know that it does, sir. I think the FDA regulation role discusses nicotine.

Q. Tried to curtail the FDA's authority to regulate nicotine; didn't you, sir?
A. We, I think, placed in here certain elements or conditions, because under the FDA rule they have the right to ban the product, and we felt that would be inappropriate, that that's Congress's right.
Q. You also built in here in this negotiation issues -- or excuse me, clauses regarding how nicotine should be reduced or not reduced; isn't that right?
A. I think we've built in here that nicotine would be reduced within three years, and that it could only be reduced within the next nine years, I think, if it could be demonstrated that the product could be commercially feasible, technologically feasible and would not lead to contraband.
Q. Well, sir, it is well known that you can -- you can eliminate almost all nicotine, so it is commercially feasible; isn't it?
A. We know it's -- that's technologically --
Q. Technically feasible; isn't that right?
A. It is technologically feasible.
Q. You testified to that yesterday; didn't you?
A. I --
Sir, you used the wrong word, not me.

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Q. Oh.
A. I'm saying it's technologically feasible, but I said yesterday and again today it was commercially unfeasible.
Q. Okay. But it is technologically feasible; correct?
A. Absolutely. We built a plant and spent over 300 million dollars.
Q. You talked to Mr. Bleakley about that; correct?
A. He raised the matter with me, yes.
Q. So that nicotine can be almost entirely eliminated in cigarettes; can't it, sir?
A. Uh-huh.
Q. Now the FDA right now has unfettered authority to regulate nicotine; doesn't it?
A. Under the rule that's being appealed in court.
Q. It does have it right now; doesn't it, sir?
A. I believe it does.
Q. Now, who gave authority to Mr. Moore, an attorney general from the state of Mississippi, to negotiate on behalf of the federal government to curtail a federal agency's authority and power to protect the public health?
A. Well I don't believe he was negotiating on behalf of the federal government. I think he was

negotiating on behalf of the states attorneys generals.
Q. He wasn't negotiating on behalf of the state of Minnesota.
A. No, but the states he's representing.
Q. And he only represents Mississippi; correct?
A. Well I believe he was negotiating for other states, too.
Q. Do you know what state he had authority to negotiate on behalf of?
A. No, I don't. I believe there were numbers of them negotiating together, sir.
Q. Now who gave any of those people the authority to negotiate on behalf of the federal government to curtail the authority of the Food and Drug Administration to regulate nicotine? Who?
A. I don't believe he represented he had that authority. This was proposed -- this agreement is proposed legislation, sir.
Q. And you know that Dr. Koop, the former Surgeon General, has roundly criticized this.
A. Yes, I know he has.
Q. You've read what he's said about it; haven't you?
A. I've read some of the things he said about it.

MR. CIRESI: May I approach, Your Honor?

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THE COURT: Yes.

MR. BLEAKLEY: Your Honor, may we have a side-bar on this?

(Side-bar conversation as follows:)

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(Side-bar discussion concluded.)

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MR. CIRESI: May I approach, Your Honor?
(Document handed to the witness.)
BY MR. CIRESI:
Q. Mr. Bible, I've handed you what has been marked as Exhibit 24376. Do you see that, sir?
A. Yes, I do.
Q. It's an editorial published in the Journal of the American Medical Association. Do you see that?
A. Yes, I do.
Q. "Reinventing American Tobacco Policy, Sounding the Medical Community Voice." Do you see that?
A. Yes, I do.
Q. And it's written by C. Everett Koop, M.D. Do you know who he is?
A. Yes, I do.
Q. Former Surgeon General of the United States; correct?
A. Yes, that's right.
Q. David C. Kessler, M.D. Do you know who he is?
A. Yes.
Q. Former head of the Food and Drug Administration?
A. Yes.
Q. George Lundberg, M.D., do you know who he is?
A. No, I don't.
Q. He's with the Journal of the American Medical

Association.
You've read this; have you not?
A. No, I have not read this.
Q. You know that this was designated as one of the documents?
A. No, I don't know that.
Q. You don't.
A. No, I don't.
Q. Now you do know that Dr. Koop has roundly criticized this proposed settlement; don't you?
A. I think he's been quite critical of it. I think he would like a settlement, but he's been critical of this one. That's my understanding.
Q. And you know that Dr. Kessler has roundly criticized this; don't you?
A. Again, I think he's been critical of this, but

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that he would like a settlement.
Q. He doesn't want a settlement anywhere near the terms of this proposed settlement; does he?
A. He's been critical of this, I believe, yes.
Q. And so has Dr. Koop; hasn't he, sir?
A. He has been, yes.
Q. And so has Dr. Lundberg of the American Medical Association; isn't that correct, sir?
A. That's correct.

I should say that I believe Dr. Kessler felt that, when he promulgated the FDA rules, that he thought that that would reduce youth smoking significantly, I think by 50 percent, and in fact the proposals in this resolution go far more than the proposals in the FDA rule.
Q. Why don't you direct your attention, then, to the last page. We'll see what Dr. Kessler says.
MR. CIRESI: We'd offer Exhibit, Your Honor, 27346 under rule 803(24).
MR. BLEAKLEY: I've stated my objection, Your Honor.
THE COURT: All right. That will be allowed into evidence.
BY MR. CIRESI:
Q. Title is "Reinventing American Tobacco Policy." Do you see that?
A. You said go to page -- the last page?
Q. Well I wanted to get the title first.
A. Oh, I'm sorry.
Q. Do you see it?
A. Yes.
Q. "Reinventing American Tobacco Policy?"
A. Yes, I do.
Q. Okay. And in the beginning it states. "1998

may be the most important moment in the history of the tobacco wars, a moment when America chooses between a path toward social repair or one toward irrevocable public loss. Winston Churchill said, 'Americans can be counted upon to do the right thing -- after trying everything else.'" Do you see that?
A. Yes, I do.
Q. Can you turn to the last page.
A. Yes.
Q. And do you see there in the first column the following statements by Drs. Kessler, Koop and Lundberg: "Basically, the tobacco industry seeks three fundamental refuges. First, it seeks to protect itself from accountability for past, present, and future wrongdoing. Second, it seems to diminish or weaken individual and group access to the fundamental right of due process. Third, it seeks to limit federal agencies from having oversight and regulatory authority. It also seeks, through 'the settlement,' to obtain a measure of social

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respectability -- to be seen as a responsible member of the business world rather than a group of corporate renegades that operate outside the bounds of social norms. The extent that the tobacco

industry has gone to secure special privilege and protect itself, individually and collectively, from liability from past and future health effects from tobacco use has raised a red flag in the public health community. With such a glaring difference between what is right and wrong for the public, Congress should have little difficulty in choosing a course that contains no deals and no trades. We support tobacco legislation by Congress, but we are opposed to granting any concessions to the tobacco industry."

Do you see that, sir?

A. Yes, I do.

Q. And do you know, sir, that that is also Attorney General Skip Humphrey's position?

A. Which position, sir?

Q. That was stated right there by Drs. Kessler, Koop and Lundberg. Do you know that?

A. Well, I didn't know that, but --

Q. You know that he's standing with them; don't you, sir?

A. Yes, I know that he has --

I don't know if he's standing with them, he didn't sign this, but I'll accept, if that's what you're saying, that that is correct.

Q. He's standing with them in supporting this proposed or purported settlement; isn't he?

A. In supporting it?

Q. In --

A. Opposing it.

Q. -- opposing it.

A. Well yes, he certainly is.

MR. CIRESI: Thank you, sir, I have no further questions.

MR. BLEAKLEY: I just have a very few questions. I don't know whether I'm on or not.

THE REPORTER: You're on.

REDIRECT EXAMINATION

BY MR. BLEAKLEY:

Q. Is Attorney General Michael Moore of Mississippi the only Attorney General of a state in the United States who signed this agreement?

A. No, there are others who signed it, sir.

Q. Is he the only attorney general of any state in the United States who supports this agreement?

A. No. I believe 36 state attorneys general support it.

Q. The attorney general of Florida, for example, was part of the negotiations of this settlement; isn't that correct?

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A. That's correct, sir, yes.
Q. What about the attorney general of Texas?
A. Yes, I believe he was.
Q. Was Attorney General Humphrey in any way excluded from the negotiations?
A. No, not to my knowledge.
Q. In fact, if this national resolution is adopted by Congress, would the state of Minnesota participate?
MR. CIRESI: Your Honor, I'm going to object to this. Number one, it's leading, and it's irrelevant.
THE COURT: I think that's an objectionable question, counsel. You'll have to rephrase that.
MR. BLEAKLEY: I'm sorry, Your Honor, I didn't hear.
THE COURT: You'll have to rephrase the question.
Q. If the national resolution is adopted in the federal legislation, would the state of Minnesota receive any funds?
MR. CIRESI: Objection.
A. Yes, I believe they would.
MR. CIRESI: Excuse me, sir. Objection, it's irrelevant -- irrelevant and speculative because

we don't know what the resolution will be.
THE COURT: Sustained.
Q. If the national resolution is adopted by the Congress and enacted into legislation, will the profits of the tobacco companies decline?
A. Yes, they will.
MR. CIRESI: Objection -- excuse me, sir. Objection, Your Honor, that's rank speculation.
THE COURT: Well I'll let you answer that.
A. Yes, they will, sir.
Q. And why is that?
A. Because the volumes will decline quite significantly as the prices go up.
Q. Now is this national resolution currently being debated in the United States Congress?
A. Yes, it is.
Q. To the best of your knowledge, is everyone who has views on any side of the issue being given the opportunity to express their views?
A. Yes. I think a wide range of views is being obtained by a wide number of committees.
Q. And who ultimately will make the decision about the extent of FDA regulation?
A. Congress, I believe.
Q. The President of the United States?

A. That's the President of the United States, yes.
Q. It won't be Attorney General Michael Moore of

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Mississippi?
A. No, sir.
MR. BLEAKLEY: Excuse me a moment. Could I consult with counsel for just a second?
(Discussion off the record.)
MR. BLEAKLEY: Nothing further, Your Honor.
MR. CIRESI: I have just one question, Your Honor.
MR. BLEAKLEY: Your Honor, we had a rule in this case of two per side.
THE COURT: You may step down.
MR. BLEAKLEY: Thank you, Your Honor.
THE COURT: You don't have to, but you may step down.
THE WITNESS: I may step down?
(Laughter.)
THE WITNESS: Thank you very much, Your Honor.
THE COURT: Do you want to go home?
MR. CIRESI: I think the jury might want to.
THE COURT: We'll take a vote.
All right, we'll recess at this time.

(A juror raises her hand.)
THE COURT: You don't get a vote.
(Laughter.)
THE COURT: We'll recess, reconvene tomorrow morning at 9:30.
THE CLERK: Court stands in recess.
(Recess taken.)

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